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FIRST SESSION—THIRTIETH PARLIAMENT
1974-75

THE SENATE OF CANADA

PROCEEDINGS OF THE

STANDING SENATE COMMITTEE ON

FOREIGN AFFAIRS

The Honourable GEORGE C. van ROGGEN, *Chairman*

Issue No. 20

THURSDAY, DECEMBER 18, 1975

Nineteenth Proceedings Respecting:

Canadian Relations with the United States

(Witnesses: See Minutes of Proceedings)

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THE STANDING SENATE COMMITTEE
ON FOREIGN AFFAIRS

The Honourable George C. van Roggen, *Chairman*

The Honourable Allister Grosart, *Deputy Chairman*

and

The Honourable Senators:

Asselin	Lafond
Barrow	Laird
Bélisle	Macnaughton
Cameron	McElman
Carter	McNamara
Connolly (*Ottawa West*)	Rowe
Croll	Sparrow
Hastings	Yuzyk

Ex Officio Members: Flynn and Perrault.

(Quorum 5)

Order of Reference

Extract from the Minutes of Proceedings of the Senate, Wednesday, November 6, 1974:

"Pursuant to the Order of the Day, the Senate resumed the debate on the motion of the Honourable Senator van Roggen, seconded by the Honourable Senator Riel:

That the Standing Senate Committee on Foreign Affairs be authorized to examine and report upon Canadian relations with the United States;

That the Committee be empowered to engage the services of such counsel and technical, clerical and other personnel as may be required for the purpose of the said examination, at such rates of remuneration and reimbursement as the Committee may determine, and to compensate witnesses by reimbursement of travelling and living expenses, if required, in such amount as the Committee may determine;

That the papers and evidence received and taken on the subject in the preceding session be referred to the Committee; and

That the Committee have power to sit during adjournments of the Senate.

After debate, and—
The question being put of the motion, it was—
Resolved in the affirmative."

Robert Fortier,
Clerk of the Senate.

Minutes of Proceedings

Thursday, December 18, 1975
(26)

Pursuant to adjournment and notice, the Standing Senate Committee on Foreign Affairs met at 9:37 a.m. this day.

Present: The Honourable Senators van Roggen (*Chairman*), Carter, Grosart, Lafond, McElman and Sparrow. (6)

In attendance: Mr. P. C. Dobell, Director, Parliamentary Centre for Foreign Affairs and Foreing Trade; and Mrs. Carol Seaborn, Special Assistant to the Committee.

The Committee continued its study of Canadian Relations with the United States.

On motion of Senator McElman, *Resolved*,—That the Chairman request from the Senate, authority to make public, during the forthcoming recess of Parliament, this Committee's report "Volume I—Respecting Canada—United States Relations", should such action be deemed to be necessary

Witnesses: Mr. E. B. Carty, Senior Adviser, Balance of Payments, Statistics Canada; and Mr. M. G. Kelly, Chief, Balance of Payments, International Division, Department of Finance.

On motion of Senator Carter, *Resolved*,—That, during this Committee's study of Canada—United States Relations, The Chairman be authorized to decide on the inclusion in the printed proceedings of such supplementary information, as he may deem advisable.

During his statement, Mr. Carty referred to a series of tables containing statistics respecting Canadian Balance of International Payments (*Note: Those tables are printed as Appendix "A" to these proceedings*).

At 11:30 a.m. the Committee adjourned to the call of the Chairman.

ATTEST:

E. W. Innes,
Clerk of the Committee.

The Standing Senate Committee on Foreign Affairs

Evidence

Ottawa, Thursday, December 18, 1975

The Standing Senate Committee on Foreign Affairs met this day at 9.30 a.m. to examine Canadian relations with the United States.

Senator George van Roggen (*Chairman*) in the Chair.

The Chairman: Honourable senators, we are continuing today with further witnesses in an effort to furnish ourselves with factual, background statistical material on which we can base our study of Canada-U.S. relations so far as trade is concerned. We have with us this morning two witnesses who will be dealing with the bilateral balance of payments picture and invisibles and capital flow back and forth across the boundary. I shall first be calling upon Mr. E. B. Carty, Senior Adviser, Balance of Payments, Statistics Canada, and later Mr. M. G. Kelly, Chief, Balance of Payments, International Finance Division, Department of Finance.

Before calling upon Mr. Carty, I should like to seek the agreement of the committee to my moving in the Senate this afternoon a motion that we be free to publish Volume I of our study, which will be ready in January, even though the Senate may not sitting at that time. I would only expect to do that in the very unlikely event that the Senate will not be sitting in the last week of January. It is my hope that we shall definitely have the report ready at that time, and we should be in a position to be able to take it with us to the meeting of the Canada-U.S. Interparliamentary Group on January 29. I fully expect that the Senate will be sitting that week, in which event it can be properly introduced by tabling. But in the unlikely event that the Senate should not be sitting at that time, it would be unfortunate if we were not in the legal position to take the report with us to present to our American confrères.

Senator McElman: If you want a motion to that effect, Mr. Chairman, I so move.

The Chairman: Thank you, Senator McElman. Is it agreed, honourable senators?

Hon. Senators: Agreed.

The Chairman: Also before calling on Mr. Carty, I should like to introduce to members of the committee two economists who have been assigned to this committee by the Research Branch of the Library of Parliament to assist us in this study. The first is Mr. Robert Robichaud, who is a graduate in economics from the University of Quebec, in Montreal. He worked with two or three government departments before joining the Library of Parliamentary as an economist in its Research Branch. Sitting next to Mr. Robichaud is Mr. Neil who graduated in economics from Queen's University. He has also had extensive training with a special interest in international trade and finance. These two gentlemen will be assisting us in general areas of economics and the correlation of evidence during this part of the study.

Senator Carter: Mr. Chairman, before Mr. Carty begins his statement, we have been handed some printed material which contains no indentification, and I cannot discover whence it comes. Perhaps if we know that beforehand it will save a little time.

The Chairman: The material you now have in your hand has been delivered to us by Mr. Carty this morning.

Senator Carter: Yes, I assume he will be referring to it, but it will be helpful if we could know its source. It is reprinted from what appears to be a publication, with the date on it, but I have not been able to identify it.

The Chairman: I assume that Mr. Carty will deal with that during his remarks.

I have a further statistical table, which Mr. Kelly gave me, but I will delay distributing it until Mr. Kelly commences his remarks.

Mr. Carty, if you will commence with an opening statement, we can then proceed to questions.

Mr. E. B. Carty, Senior Adviser, Balance of Payments, Statistics Canada: Thank you, Mr. Chairman.

I understand, Mr. Chairman and honourable senators, that you have already devoted a session to Canada-United States trade and have also touched on the subject of travel between our two countries. This morning Mr. Kelly and I are going to deal with invisibles and capital flows. Since these together constitute the comprehensive estimate of Canada's international transactions, known as the balance of payments, it might be helpful for members to have a highly summarized statement for last year to put the various pieces into perspective. Note: The tables referred to below may be found in appendix "A" to these Proceedings. This is what you have before you in Table 1. I do not wish to revert to trade, but I think it would be helpful if I noted that the data for trade which appear on this table may differ significantly from the numbers about which the Department of Industry, Trade and Commerce representatives spoke to you. The regular monthly trade figures are produced on the basis of documents filed with the customs authorities. To make these as appropriate as possible for use in a balance of payments framework a number of refinements are necessary, mainly in respect of coverage, valuation and timing. They are not inconsequential. As a result, while merchandise trade with the United States in 1974 yielded a surplus on a customs basis of $19 million, the adjusted trade surplus figure is $1,002 million, so the numbers are significantly different.

But now let us turn to the invisibles. Viewed in the broad sweep of history, recognition of their significance has been relatively recent. In the days of mercantilism,

commodity import and export data were recognized to be of great importance. They could be obtained relatively easily, since the guards along national frontiers for purposes of protection could handle the work of recording foreign trade movements with comparatively little added burden and, of course, the data were naturally related to customs administration. By the middle of the seventeenth century, which is going back a fair distance, observers in Britain began to take note of the likeness that exists between commodity exports and the services rendered to foreigners by those engaged in shipping and marine insurance. But it was not until the beginning of the eighteenth century that rough methods began to be devised to take account of these and other service items, and it was only between the two world wars that full balance of payments statements, as we know them, began to be compiled on a regular basis.

In these rather technological times "invisibles", or "invisible goods" as they used to be referred to, have tended to be described by rather less romantic and more prosaic terminology—services and transfers, or non-merchandise transactions. By whatever name, they will be found in tables 2 and 2(a). I will be talking primarily of table 2, which is a summary form of the principal groups of our invisible transactions, with some subsidiary detail of two of the categories supplied in table 2(a).

These tables pick out our invisible transactions with the United States at intervals of five years, running back nearly half a century. The first thing that stands out in anexamination of them is their relatively regular pattern. Indeed in the twenty-nine years since the end of World War II, the net deficits on account of them rose in twenty-two years. This is in very sharp contrast to trade balances or to capital flows which have shown much greater variation. In what follows I shall generally refer to the most recent figures for illustrative purposes, but you have a "skip-and-jump" history of them before you.

Canada had a deficit with the United States in 1974 on account of invisibles of somewhat over $2.5 billion, in contrast to the surplus of $1 billion on trade which I mentioned earlier. This deficit was made up of $1.4 billion from interest and dividends, $0.9 billion from business and similar services, $0.4 billion of miscellaneous income and $0.1 billion from freight and shipping transactions. Against these amounts may be set surpluses on travel account, government transactions not elsewhere specified, transfers of inheritances and migrants' funds, and personal and institutional remittances, aggregating in all $0.3 billion. We had a series of rather large deficits on a number of accounts, some smaller surpluses from certain sources, and a net deficit with the United States on invisibles of $2.5 billion.

Since you have already heard from officials of the Department of Industry, Trade and Commerce about the travel account, I shall say little about it. The receipts, which are shown in the third group on table 2, measure all expenses incidental to travel in Canada made by non-residents and international fare payments made by them to Canadian carriers; conversely, the very large payments cover expenses incidental to travel abroad of Canadians and their international fare payments to non-resident carriers.

In 1974 our net receipts on travel account from the United States were $132 million. While 1967 is not shown, you might be interested to remember that Expo 67 and the other Centennial activities of that year brought about an unprecedented rise in the travel surplus from $102 million in 1966 to $537 million in 1967, then fell back to less than $200 million in 1968. But in general, with growing totals for both receipts and payments, the balance of our travel transactions has not swung widely.

Although it is not possible to quantify each of them, there are a great many influences on that account. Among them are rising incomes, longer vacations, mid-term school holidays, the changing role of the automobile, the jetliner, broadening cultural links following World War II and massive immigration to Canada, the search for the different, changes in tourist import exemptions, relative costs in different parts of the world, currency restrictions in part of the earlier period, gasoline shortages in recent years, labour disputes, and political disturbances in Europe from time to time. Some of these influences have affected our receipts, some payments, and some both. Some affect our international travel account as a whole, and some affect its geographical distribution.

A great amount of statistical detail is available on international travel; but I shall now leave that subject and turn to interest and dividends, the fourth group of items on table 2.

At $1.424 billion, this was the largest contributor to our net deficit on invisibles with the United States in 1974. The receipts shown cover interest on holdings of United States bonds and on that part of our official international reserves held in the United States, dividends from our direct and portfolio investments in that country, and net profits on branch operations there of Canadian corporations, apart from banks and insurance companies. Our payments, aggregating $1.9 billion, include interest on funded debt, dividends, and the profits of branch operations apart from insurance. These are not all the types of investment income receipts and payments that we have. Some others come in at a later place in the accounts, and I will touch on them later.

The net payments balance on account of interest and dividends reflects, of course, Canada's position as a very large net importer of capital from the United States, although the not inconsiderable receipts are a reminder that Canada is also a large investor abroad. Mr. Kelly will be discussing with you the underlying capital flows.

A division between the interest and dividend components appears in Table 2(a). Rising payments of interest reflect not only large amounts borrowed in the United States in recent years, particularly by provincial governments, but also higher interest rates. Important factors in our receipts of interest have been the growth in Canada's official holdings of foreign exchange and the higher yields applicable to the short-term securities in which they are invested.

On dividends, I might comment that while the payment of a dividend to its public shareholders represents a reduction of the resources available to the enterprise complex, one from a subsidiary to a parent is quite different, for it represents no more than a shift of the location or nature of claims. So there is much greater variation in the dividends paid by subsidiaries to parent companies than is the case with dividends paid by public companies. Indeed, insofar as parent-subsidiary relations are concerned, if the dividend route is unattractive for any reason, other options for transfers are available.

Let us now move on to freight and shipping, which appears back on Table 2. This series records, the receipts

of, and payments by, Canadian residents arising from international exchanges of services pertaining to the movement of commodities. They represent only a small part—just over $100 million—of our deficit on invisibles with the United States in 1974.

Perhaps of most interest among Canada's invisible transactions with the United States are those grouped together as "other service". This category is subdivided into three distinct subgroups: government expenditures, miscellaneous income, and business and other service transactions. These subgroups are shown on Table 2(a).

Government expenditures, which produced net receipts from the United States of $32 million in 1974, comprise international transactions of a current nature arising from government transactions which are not covered elsewhere. Receipts include expenditures by the United States government for representational or military activities in Canada, items such as proceeds from international postal services, taxes on estates passing into non-resident ownership, and that type of thing.

Payments to the United States cover the costs of official Canadian representation by the federal and provincial levels in the United States, Canadian military expenditures in the United States, the costs associated with our membership in international organizations based in the United States—various parts of the United Nations that are based there, for example—and payments for international postal services, and smaller items.

Miscellaneous income, the second subgroup, involved net payments to the United States in 1974 of approximately $400 million. That subgroup includes a variety of transfers of investment income not already covered in the deficit of $1,424 million in respect of interest and dividends. Included in the $400 million are the net revenues from transactions between residents of the United States and Canadian banks—that is, the flows of income on deposits, loans, securities and services—net revenues from the international operations of insurance companies, interest on mortgages, interest on private holdings of exchange, and interest on all other short- and long-term claims apart from bonds and debentures.

As the final category of service transactions, we come to business and other service transactions. These led in 1974 to net payments of nearly $900 million to residents of the United States. A rather complete analysis of these payments was made in respect of 1973. We have reproduced a document which begins at page 2 and is headed "Monday, July 14, 1975." I apologize for not having identified the source in my brief. This is a portion of the Statistics Canada daily for that day where it was published. It has not yet been published elsewhere. Both receipts and payments are large and the elements are numerous. Among them, as you will see, are royalties, copyrights, trademarks and patents; management and administrative services; special tooling and other automotive charges; scientific research and product development; consulting and other professional fees; insurance premiums and other insurance transactions; commissions; film rentals (including television); advertising and sales promotion; equipment rentals; franchises and similar rights; and expenditures on services by railways and airlines. These are the principal groups of transactions of corporations.

Senator Carter: Is this for one day?

Mr. Carty: No, this is for the full year, 1973. So that in that year our receipts for business and other service transactions were $588 million—that is in the U.S. column, the fourth figure from the bottom in table 1A. These were total business services and other transactions. The corresponding payments were $1,273 million. That appears in table 2A, the United States column as "Totals, business services and other transactions."

Senator Carter: I am a little confused because these tables we are looking at are published by Statistics Canada and are dated July 14.

Mr. Carty: That is the date of the publication of the daily bulletin, but the figures are for 1973.

Senator Carter: For the calendar year 1973?

Mr. Carty: Yes, the calendar year.

The Chairman: You see, Senator Carter, at the top of the page "Table 1A, "other Service Receipts', by Area, 1973".

Senator Carter: Yes. Then these figures are two years old.

Mr. Carty: Yes, we do not make a complete breakdown of this sort every year because it would be too burdensome for corporations and too expensive for the government. An estimate of the totals for 1974 appears in table 2a of the specially prepared document you have, while the 1973 figures are here in detail.

Senator Carter: I thought they were brought up to date on the date that these were published.

Mr. Carty: No, I am sorry about that.

Senator Carter: And that they reflected the situation on that date.

The Chairman: You say you do this every two years or so?

Mr. Carty: We do it at irregular intervals. It was done for 1969 and again for 1973, and it was planned to do it again at some stage, but the bureau faces the problem of such a wide variety of transactions that many of them could not be done every year without undue expense and undue burden to the public.

The Chairman: I might just make the observation now that as this study will be going on through 1976 we would be able to get, if not this breakdown, at least general figures for 1975 for incorporation in our report.

Mr. Carty: There would be no problem about that.

Before turning to the other types of transactions in the series, it should be noted that by far the largest parts of both these service receipts and payments with the United States occur, not surprisingly, between affiliated companies. A breakdown of those is available also on these pages. Would it be helpful if I were to identify them?

The Chairman: Yes, it would be.

Mr. Carty: Table 1B shows the total business service receipts by Canada from abroad, covered by this survey, amounting to $326 million from all countries. If we move over to the columns for United States controlled enterprises you will notice that their receipts from abroad were $200 million, of which $160 million came from affiliates. (The column marked "A" designates affiliates, the column marked "N.A." designates non-affiliates and "T" is total. It

is not a very happy set of descriptions.) So United States controlled enterprises in Canada had business service receipts from all countries amounting to $200 million, of which $160 million came from affiliates and $40 million from non-affiliates.

The Chairman: So that is what Canadian subsidiaries of American parents earned abroad for Canada through subsidiary service operations in Canada?

Mr. Carty: That is right.

The Chairman: And that is for services as opposed to actual trade?

Mr. Carty: That is right. Then if you would like the corresponding table for payments you will find it on Table 2B. It shows that the total payments to non-residents by United States controlled subsidiaries in Canada, for services supplied by non-residents, mainly in the United States, were $796 million, of which $685 million were to affiliates.

Senator McElman: Does that include banking services?

Mr. Carty: Banking services are not in there. Banking services are within the figures for miscellaneous income receipts and payments, and they are not distinguished from their investment earnings.

The Chairman: That is about a $600 million difference between what those subsidiaries earned in services outside of Canada as opposed to what they pay out for services.

Mr. Carty: That is correct, sir. It is sometimes tempting to use these sorts of figures as measures of the services provided so as to construct, in some sense, a technological balance of payments or a service balance of payments. It is not totally practical to do so. There is some evidence that services between parent companies and subsidiaries are not the subject of consistent accounting treatment. For example, we did a special analysis in 1969 and we found that three out of four of the units reporting to us which were United States controlled, made no payments whatsoever to their parent for management or administrative services—that is to say, they made no charges. The likelihood is that some services were received. But the fact that no charges were made does not, of course, mean that services were not supplied. To the extent that they were supplied without specific charges, it may be presumed that the subsidiary profits were higher than would otherwise have been the case.

Let us continue with the remaining elements of business and other services.

The Chairman: While you are on that point, you say that certain management services were not charged for. Would it be true to say also that a good deal of technological knowledge and design features and other things for the products they manufacture would not be charged either?

Mr. Carty: I think that is a reasonable inference.

Moving outside the area of corporate business service receipts and payments, there are a number of other elements. There are the earnings of commuters which go into this series, and the activities from international trade unions, telecommunication services, something for lotteries, the engineering and other professional services rendered by individual consultants and small firms, something for entertainers' fees, something for subscriptions to periodicals, to the extent that they do not get into imports, payments for newspaper features and foreign correspondents, membership in professional societies, education by correspondence and education in foreign schools. These are all sorts of things for which we make some allowance in these totals and, obviously, some of them are very difficult to measure and are no more than the best estimates we can make. However, I thought the list would be useful as a reminder of the very widespread nature of our visible transactions.

Senator Carter: Where does advertising on United States radio and television appear?

Mr. Carty: Payments to the United States for advertising and sales promotion during 1973 on the returns which we received for that year, amounted to $29 million.

The Chairman: But that would not necessarily break out the advertising fee paid to a Canadian subsidiary of an American agency.

Mr. Carty: It would not.

The Chairman: That might end up in your dividend column.

I mention that, Senator Carter, because a typical example would be KVOS, Bellingham, in relation to the city of Vancouver. There an advertiser would show his advertising going to the Canadian subsidiary which is maintained in Vancouver for their advertising. Then they would take dividends out of that subsidiary to their ownership in the States, which would not show up in that figure of $29 million which was mentioned.

Senator McElman: It is similar to the situation with respect to *Time* magazine and *Reader's Digest.*

The Chairman: It is very similar.

Mr. Carty: We have dealt quickly with the very broad group of types of things which we include as services. However, there is a second element in the invisibles, described as transfers. These comprise the transactions which are considered by national income accountants to have no *quid pro quo*—the funds which cross the border by way of inheritance or migration, payments or receipts of pensions, or personal and philanthropic gifts. In 1974, Canada's net receipts from the United States arising from inheritances and migrants' transfers amounted to $55 million, while on balance a further $71 million, net, was received from personal and institutional remittances.

Mr. Chairman, I have come to the end of my quick review of Canada's transactions in invisibles with the United States. There are few, if any, of us whose interests and activities do not affect them in some way. I have deliberately foregone the temptation of the statistician to comment on difficulties on measurement, the methods by which we attempt to overcome them, and the degrees of strength or weakness in the resulting estimates. However, on these points, as on any others, I shall be happy to try to answer your questions.

The Chairman: Thank you very much, Mr. Carty. I think the senators would agree with me, following your presentation and the tables you have given us, that we are involved in a bigger subject than some of us anticipated. Our staff will be busy correlating this material.

Are there questions at this point, senators, or would you rather proceed to Mr. Kelly's presentation?

Senator Carter: Perhaps we had better hear both presentations before the questions.

The Chairman: It might be better. Will you proceed, please, Mr. Kelly?

Mr. M. G. Kelly, Chief, Balance of Payments, International Finance Division, Department of Finance: Thank you, Mr. Chairman. I would like to make some very brief comments with respect to the international capital flows, particularly between Canada and the United States, and to make a few points on the nature of balance of payments equilibrium. Then perhaps I could pursue the questions of senators and fill in some of these points.

There is often some interest in particular "balances" within the overall balance of payments, whether by geographic region, commodity composition, or industrial sector. Looking at such balances can give us some insight into the structure of our economy and the way it evolves over time.

From the viewpoint of the economy as a whole, perhaps the most important such balance is that on current account. This measures the difference between what Canadians sell (or give away) to non-residents and what they buy (or receive as gifts). This balance as a counterpart an equal and opposite balance on capital account (including the government's official reserves transactions). The capital account balance, when positive, represents a net increase in borrowing abroad. Corresponding to this there will be an equal current account deficit which translates the financial loans into real terms—that is, we are in reality getting foreign goods and services for our own use.

Traditionally Canada has been an importer of capital. Over the last century and more we have received large sums from abroad through direct investment in Canadian subsidiaries and through sales of Canadian bonds and equities to non-residents. (The table which has been circulated shows the net flows over the last quarter century broken down into U.S. and Other Countries and into long-term and short-term. I should caution you that both the geographic basis and time division are somewhat arbitrary.) This pattern of net capital inflows reflects the abundance of investment opportunities in Canada which, despite the high levels of savings by Canadians, could not be financed entirely out of domestic sources.

As this table indicates, for the period since the second world war, the United States has been the major source of such savings. I might note parenthetically that in earlier periods that was not the case. In fact, during the latter part of the nineteenth century and well on into the twentieth century we received most of our funds from the United Kingdom. However, in the post-war period it has largely been the United States which has provided long-term capital and, as you can see, we have had a varied experience with the remainder of the world in terms of whether we had borrowed from them on balance or loaned to them.

I might also point out that although the balances are large and varied, they have been relatively constant in terms of GNP. The experience of the 1950s and that which we are currently going through are very similar in terms of the relative proportion of the capital funds we have raised abroad. This was less so in the 1960s, so that there have been some cyclical and secular ups and downs.

I would like to now make just a few comments with respect to the nature of balance of payments equilibrium. The overall balance of payments must be in balance, that is, the net inflows and outflows must cancel out as part of the foreign exchange market process. This is a tautology resulting from the nature of double-entry bookkeeping but it also has important implications for economic analysis, and the structure of the balance of payments. We cannot lose sight of this constraint when considering the changes in structure, whether from an historical or possible future perspective. For any one change in the balance of payments there must be at least one opposite change somewhere else. Let me illustrate this by reference to the current account/ capital account dichotomy I pointed out earlier. Particular measures are often proposed to encourage exports or reduce imports in particular sectors or with particular countries. One justification sometimes proferred is that this will "improve" our balance of payments. Apart from the value judgment contained in that word "improve" we can see that this is an impossibility in an accounting sense. An improvement in an economic sense will depend on whether the change leads to a better or poorer allocation of resources. This must be examined on a case-by-case basis. But the most likely outcome of such a change will be an offsetting drop in some other category of exports or an increase in some imports. This would leave the current account balance unchanged and have virtually no net effect on Canadian output and employment. The point I am trying to make is that balance of payments policy must therefore keep in mind the overall structure of our international transactions. We cannot, unlike those whose primary concern is with particular sectors of the economy, focus on particular balances in isolation. Changes in structure must be evaluated in total before judgment can be passed.

The Chairman: Thank you, Mr. Kelly.

Senator Carter: I take it these are round figures, because if you add the three columns together—that is, the 625 and 321—and subtract the 384, you get 562. So these are just round figures.

Mr. Kelly: Yes.

Senator Carter: Interest and dividends are lumped together. Is there any special reason for that?

Mr. Carty: No, sir. Interest and dividends are lumped together in our main tables simply because if one gets too many lines the table is hard to read. But they are published separately. They appear in table 2(a). You will find the interest and dividends total at the top, and the two components, interest and dividends, separately specified below.

Senator Carter: The two biggest items, apparently, are the interest and dividends, and other services.

Mr. Carty: Those are the large ones.

Senator Carter: Yes. Does the interest include borrowing by government?

Mr. Carty: Borrowing by governments are in there, sir.

Senator Carter: And the interest on the public debt?

Mr. Carty: The net payments on all bonds and debentures held by non-residents, whether by provinces, municipalities, federal governments or corporations, are in there.

Senator Carter: It is my understanding that provincial borrowings were being made largely from pension funds;

but apparently that has not had much impact on our balance of trade on invisibles.

Mr. Carty: Perhaps that is a question which Mr. Kelly might prefer to answer. Pension funds have been very important suppliers of funds to the provinces. Government demands for funds have been so great that there have also been large borrowings abroad.

Mr. Kelly: I think that is it, in essence, senator. In fact we have had to turn consistently to foreign sources, and even recently there has been a very large increase in provincial borrowing abroad, despite the funds which they have been getting through the Canada Pension Plan and the Quebec Pension Plan.

Senator Carter: Am I correct in my understanding that pension funds, as a source of provincial borrowing, are likely to diminish? The funds are beginning to get smaller, which means that more borrowing will be made outside Canada if we cannot borrow from inside. We can expect the trend to get worse instead of better. Is that a fair statement?

Mr. Kelly: In the last few years the flow of funds to the provinces from pension funds has been roughly level. Provincial borrowing requirements have increased. As you are aware, the structure of the Canada Pension Plan and the structure of the Quebec Pension Plan were designed to accumulate, I believe over a 20-year period, and then level out. Whether that will remain the case once we reach 1986 remains to be seen. It is true that the inflows have been approximately level. Provincial borrowing requirements have increased and they have turned, particularly in 1975, in very large measure to foreign markets to sell their bonds.

Senator Carter: These are figures showing Canada's position. Are there any figures available showing the United States position?

Mr. Kelly: The United States publishes very detailed balance of payment figures. I do not have them with me.

Senator Carter: I am interested only in finding out just how important is our deficit compared with theirs. Do they depend on us to a great extent to balance their figures?

Mr. Kelly: That is a little difficult to answer. It has been true, on this current account concept you see in the first column of our table, that Canada has in many years accounted for a large part of their current account surplus. Typically the United States runs a surplus on current account—in other words they export more than they import—and Canada has been responsible for a large chunk of that. It has not been uniform. For example, in the current year, where much of the improvement in the United States current account balance is due to agricultural trade, which is not largely with Canada, I would say you could not apportion the primary chunk of the increase in the American surplus to Canada. But in many post-war years that has been true, and we have been the major source of their current account surplus.

Senator Carter: Is there anything we can do by way of policy or procedures to improve our position? I know that the more goods we sell in visible merchandise, the better is the position, but is there anything we can do to improve the situation from the point of view of invisible trade?

Mr. Kelly: We can make efforts in invisibles in the same way that we do on the trade side. We do a lot of that through tourist promotion and that kind of thing. Presumably we could sell Canadian business services in the same way that we promote merchandise. That might result in some improvement. My point earlier was that if we do something positive and it has positive results in the sense of increasing export earnings of reducing our payments abroad, we have to look at what effect it will have, on a net basis, on the balance of payments, because there will have to be some offset somewhere else. Unless we take specific measures to encourage a reduction in capital inflows, for example, the effect would be to reduce our exports somewhere else, and on a net basis we would be no further ahead.

Senator McElman: Perhaps, Mr. Chairman, this would be a good point for the witness to comment on the effects of the exchange rate, particularly on capital flow over the last several years. I do not believe he has referred to it.

Mr. Kelly: Yes, Mr. Chairman. The exchange rate, of course, plays a very important role in the balance of payments. In fact, it is what clears the foreign exchange market and ensures that this balance between inflows and outflows that I talked about comes about.

The impact of the exchange rate, in turn, on the balance of payments is quite clear in the case of the current account. When the Canadian dollar is cheaper we can sell more goods and services abroad and there is less incentive for Canadians to buy foreign goods and services.

Its impact on the capital account is much more difficult to put your finger on. I would say there is some casual evidence that provincial borrowings, that we were talking about a moment ago, can be influenced by the way the exchange rate is moving currently. There is certainly a much larger impact on short-term inflows and outflows. The evidence we have been able to come up with suggests that they are stabilizing, in the sense that when the Canadian dollar moves down, foreign funds move into Canada, and vice versa.

As I mentioned, the impact on long-term capital is a little trickier and more difficult to deal with. There seems to be some influence on where governments place their bonds—and corporations for that matter, I presume. When the exchange rate moves there is the question of whether the Canadian dollar should be above or below the American dollar; and when we get some movement around that level it seems to have some influence on the sale of bonds.

We would not think that over the long term there is really much influence of the exchange rate on long-term capital flows. You do get some movement on the short-term side, but I think there would be little net impact in the long haul on long-term flows.

Senator McElman: Would the exchange rate have had a material effect on the rather extensive fluctuations in the data you have given us?

Mr. Kelly: As you are aware, the Canadian dollar was pegged in the sixties. The experience of moving from a fixed exchange rate to a floating rate—twice now in the postwar period, in 1950 and again in 1970—was associated precisely with an increase in capital inflow. The government of the day on both occasions decided that it could not maintain the value of the Canadian dollar at a fixed level.

So that we view the exchange rate, typically, as the result of capital movements rather than the cause of capi-

tal movements. Again, our experience over the long haul is that that is in fact the case. As it were, the capital comes in independently of what the exchange rate is. The current account, therefore, has to adjust to that capital inflow, whether it increases or decreases, and one of the main adjustment mechanisms is through changes in the exchange rate.

Senator Cameron: What was the average interest rate over the past year?

Mr. Kelly: The long-term interest rate ranged from 10 to 12 per cent. Typically, Canadian interest rates have been roughly a percentage point higher than those in the United States. In the last year or so, that differential has widened substantially. Currently, for a typical long-term issue, Canadian interest rates are now about 2 percentage points higher than those in the United States, or in Europe, for that matter. Of course, that is a reflection of one of the factors involved in the large increase in government and corporate borrowing abroad in 1975.

The Chairman: Why are our interest rates higher?

Mr. Kelly: It is because our capital requirements have increased, thereby forcing Canadian interest rates up which, in turn, drive Canadian borrowers abroad where interest rates are not as high.

Senator Carter: Our capital requirements for this year, I believe, are approaching $5 billion.

Mr. Kelly: The current account deficit we expect in 1975 will be something over $5 billion. Of course, there will have to be capital inflow in one form or another. Long-term capital inflows in 1975 are likely to be in the order of $3 billion. The difference will be financed by short-term capital inflows.

The Chairman: I am not quite clear as to why Canadian interest rates are 1 to 2 per cent higher than the interest rates in the United States or the rest of the world.

Mr. Kelly: Let me talk about the general situation historically. Canadian interest rates, generally, have been higher than those abroad, including interest rates in the United States. That reflects the relative scarcity of capital in Canada. Despite the large amount of savings by Canadians, in relative terms, investment opportunities in Canada have been so large, so profitable, and the requirements of governments, and so forth, have been so large, that we have not been able to finance them all at home. This has put upward pressure on interest rates, and because we are net borrowers, interest rates in Canada been higher than those abroad. What has happened in the last year or so has been an intensification of that process. It has happened at a time when provincial government requirements have increased quite substantially.

The Chairman: You mean we bid the interest rates up on oursleves?

Mr. Kelly: That is right.

The Chairman: The reason I asked the question is that I could not understand why, assuming the security is good, a mortgage on an office building in Canada should bear interest at 2 percentage points higher than a mortgage on an office building in the United States. I suppose if the lender was getting the same rate, he would rather stay at home.

Mr. Kelly: Exactly. The historical evidence would suggest that that factor is at work. Otherwise, we would expect interest rates to be equal in the two countries. There seems to be this sort of national preference on the part of lenders that has kept this interest rate differential in place for a very long period of time.

The Chairman: Historically, the differential has been 1 per cent, except when we are bidding ourselves too high.

Mr. Kelly: Right.

Senator Carter: Is that completely due to a shortage of capital in Canada, or is it partly due to Canadian policy? As I understand it, we do not want the pressure to push up the exchange rate on the Canadian dollar too far in proportion to the U.S. dollar. Is there not an element of policy of that nature involved?

Mr. Kelly: If that policy were operating, it would suggest that the interest rate differential, should be reduced. The higher the differential, the more capital comes into Canada, the higher the Canadian dollar.

Senator Carter: Yes, but it then becomes more difficult for Canada to sell abroad, because the purchasing power of our dollar, the exchange value of our dollar, goes up in relation to the U.S. dollar. Our policy, as I understand it, is to limit that; not to let the differential get too great between the two currencies.

Mr. Kelly: Those are opposite sides of the same coin, of course, senator. On the one hand, because of our capital requirements, we want to import capital; on the other hand, on the basis of trade promotion, we want to encourage exports. Of course, the point I have been trying to make is that we have to choose a balance between exports and capital import.

Senator Carter: The cheaper our dollar, the more we can export.

Mr. Kelly: That is right. In fact, there has been this tug-of-war, so to speak. I do not think there has been a clearly enunciated policy in all the postwar period. At various times, we were worried about where the dollar was and where our current account balance was. But we have always been faced with this problem because our capital requirements are large. On the other hand, we do want to promote exports. We have to give on one side or the other.

Senator Carter: Is it absolutely necessary for us to borrow from outside of Canada? My understanding is that Canadian savings are increasing year by year and that we could, if we had the will, finance a lot of our own operations from our own savings. Apparently, however, Canadians do not want to do that.

Mr. Kelly: That would certainly be one policy option, senator. We could imagine a policy not allowing any capital at all into Canada, and we would have to enforce that through legislation. The effect of that would be that we would export more. It would also mean that there would be less capital supplied to Canadians. Interest rates, therefore, would be even higher than they are and there would be less investment in Canada.

The Chairman: And the Canadian dollar would be forced down in terms of exchange rates?

Mr. Kelly: Yes, the dollar would be forced down and interest rates up. Canadian savings would be encouraged

even more, but no doubt there would be some cutback in investment because of the higher interest rates. We could make that choice.

The Chairman: You were saying that Canadians have higher savings, Senator Carter, but that those savings were not put to work. Surely every dollar is at work somewhere and it is a question of whether it is at work in equity or in debt. Is that not a proper distinction?

Senator Carter: Some of it, I suppose, is invested in the United States and brings back some of these receipts from Canadian investments in the U.S.A.

The Chairman: But if not at work in the United States, the savings would surely be at work in Canada. There are no savings that are not at work.

Mr. Kelly: Through the process of financial intermediation, whether you deposit your money in a bank or hold it in bank notes, it is shuffled around.

The Chairman: So, all Canadian savings are at work. It is just that our savings are not sufficient to meet all of our capital requirements.

Senator McElman: It is also a question of who is taking the immense profit.

The Chairman: Then, of course, you get into the argument of equity as opposed to debt, and I would like to get into that area with our witnesses in a few moments.

Senator McElman: Getting back to the question of the differential in interest rates, surely this differential is contributing to the inflationary spiral. Is this not an area where there should be a new policy, a revised policy?

Mr. Kelly: There are two sides to high interest rates. The higher the interest rate, the more visible an element of cost it is, the higher the proportion from the point of view of the businessman or the individual consumer who is borrowing. The other aspect of high interest rates is that they do discourage spending. In that sense, high interest rates are anti-inflationary. So the immediate impact of an increase in interest rates is to promote higher costs and in that sense it might be considered inflationary, but the longer run impact of high interest rates could dampen down spending and in that sense be anti-inflationary. So you get an immediate cost-push effect to increase prices but the longer run dampening down of demand reduces pressure on prices.

Senator McElman: But with the very large investment in Canada by United States investors and with the dividends going out, that leaves less money in Canada to contribute to inflation. I suppose one could carry that thesis very far, but I do not think I would support it as being good for Canada. I am asking if perhaps Canadian policy could better be changed to reduce that differential.

Mr. Kelly: Well, I must say you are getting a little bit out of my field, but I shall try to answer that. It is currently the policy of the government to promote a neutral policy with respect to expenditures—monetary and fiscal policy—in the sense that both sides of macro-economic policy are designed neither to stimulate nor to dampen down spending in Canada. Were that policy to change in the sense of reducing interest rates in Canada, as you suggest, it no doubt would be expensionary isnce it would promote more spending in Canada. As to whether that would be appropriate or not, I do not think I should comment, but that is the apparent thrust of government policy as indicated both by the Minister of Finance and the Governor of the Bank of Canada. A policy of lower interest rates would definitely be more expansionary than current policy.

The Chairman: And more inflationary.

Mr. Kelly: There certainly would be a further upward pressure on prices.

Senator Carter: The two items that contribute most to our deficit in invisible trade are interest and dividends, and a second one is "other services" which amounts to $1.2 billion. What is the largest component of that? Are there any outstanding components of that which are larger than the others?

Mr. Carty: If we go to Table 2(a) we find the largest component in the three sub-groups, government, miscellaneous income, and business services, is business services. Using the 1973 study Table 2A shows the largest part of that to be made up of charges for technological services. Royalties, copyrights, trademarks and patents in 1973 involved a couple of hundred million dollars. You can see the other items spelled out on page 5, Table 2A.

Senator Carter: For all countries it amounts to practically $195 million.

Mr. Carty: Yes, in that year $216 million for royalties and similar payments.

Senator Carter: Royalties, management, tooling and scientific services.

Mr. Carty: Yes, on the payments side there are in addition to the items you have mentioned some very important tooling and automotive charges amounting to something over $100 million.

Senator Carter: These are the four largest components?

Mr. Carty: That is correct, sir.

Senator Carter: There is not much we can do about that.

Mr. Carty: Perhaps with your permission, Mr. Chairman, I could add this comment. Mr. Kelly mentioned the Canadian Government activities to support tourism. Also I think if there were representatives of the Department of Industry, Trade and Commerce here they would probably like to have it mentioned that they have made efforts to encourage the sale of Canadian engineering and similar services abroad. Those, of course, affect much more the developing countries rather than our accounts with the United States, but there has been some considerable promotion effort in the engineering and construction trades—selling our services abroad—and some of this has been closely allied to our aid program.

The Chairman: But that is much more in the Third World. I know a number of engineering firms earn substantial dollars abroad for Canada. The Department of Industry, Trade and Commerce, I think, would make the further print that the export of that service has the additional effect that engineers will often prescribe a known product—that is, a product known in their home country—in the design of the project, and hence you get an export of that product which results in a multiplier factor.

Senator McElman: In the last several years, in capital flow, in what portion, in round terms, would OPEC money flow into the country?

Mr. Kelly: Perhaps Mr. Carty is better able to answer this question than I am because the hard data we have on OPEC flows are rather limited. One of the reasons for this is that they do not always invest directly. They sometimes use intermediaries in the United States, the United Kingdom or Switzerland. To the best of our knowledge, and Mr. Carty might want to comment further on this, up until last year the inflows were negligible. We do know of several large bond issues that have been placed with OPEC interests in the last year or more. We are also aware of some short term capital that has come in. At a rough guess, from the figures we have seen, the inflows from OPEC would exceed a billion dollars, but that is a very rough figure. We do not know all that is coming in because some of it comes in through indirect sources, and the actual cumulative amounts could be substantially larger.

Senator McElman: Would it be possible to give a breakdown on what we know comes from OPEC and also what comes through Switzerland?

Mr. Carty: I think we could prepare a note for you showing what we know. I doubt very much if it would be possible to identify the amounts that come through Switzerland.

Senator McElman: I mean, if we could get the Swiss figure by itself, and OPEC separate from that.

Mr. Carty: We would be prepared to look at it, senator, and give you whatever we have that looks as though it might be useful.

Senator McElman: The figure of what comes direct from OPEC and also the gross figure for the Swiss money.

The Chairman: I think one of the difficulties there would surely be, let us say there is a substantial loan by way of borrowing in Canada with a Euro-dollar source through an American bank. That would show up as a loan from First National Bank in Chicago, say, which in turn comes from Euro-dollars, which in turn come from Switzerland, and which in turn may come from OPEC. How is it possible to keep track of that?

Mr. Carty: The best you can do is to get some very direct pieces and then some possible totals that include, as the Chairman said, very large amounts of this. This whisks around the would through a great number of intermediaries, and I would be very skeptical of any very precise figures.

Senator McElman: If we were to obtain data from United States, would it be almost identical data, parallel to this, or would it show a great spread?

Mr. Carty: Well, the composition of items in the current account would be quite different, but the current account balance would be very close. The reason is that trade is measured in Canadian data at a different place, a different point, on a different basis than in American data. This means that our freight and shipping accounts are different. However, in sum total the current transactions have been brought very close together as an extension of the exercise which Mrs. Ostry described to you when I was last here.

Senator McElman: I was coming to Mrs. Ostry's evidence, and in all this data we must, I assume, realize that as a result of that committee being established the exchange formula has been backed up over all these years.

Mr. Carty: It has been backed up for a certain distance, sir. We felt too unsure about going back too far, plus there are problems that users, particularly of the national accounts (gross national product), particularly users in the Department of Finance, have very strong aversions to changes which affect their models. However, the data has been fully revised back to 1971. The situation as Mrs. Ostry described to you was one that was deteriorating rapidly, so the further back it goes the smaller the problem becomes.

Senator McElman: Can we obtain a breakout of the chartered bank picture, as distinct from the miscellaneous, as shown?

Mr. Carty: I am sorry, sir; no. Those numbers present an extraordinary problem and we are not satisfied with them. The Canadian chartered banks, there is no doubt, are very large revenue producers in a balance of payments sense. This really means, not that they are making a large profit, but rather that a lot of Canadian depositors' funds are employed abroad. Very large net receipts which appear as bank revenues are really earnings belonging to the depositors. If you were to take the accounts of the chartered banks, you would probably find in some of these years, that on balance they had large net expenditures in Canada and large net profits abroad because of the distribution of their assets. Therefore, those numbers would not be very useful to you, sir. It is an area which gives us great concern.

Senator Carter: Is there any formula for referring to trade deficits in general which projects a danger point over which the deficit should not go? As you say, the pension funds are becoming less and less a source of funds for provincial borrowing. We are looking forward to the development of oil and gas in connection with the tar sands and gas pipe lines and a tremendous amount of capital will enter Canada. Is a danger there somewhere, a limit beyond which we should endeavour not to go?

Mr. Kelly: I would say, senator, that as long as these large amounts of capital that we are importing are being used productively there is no danger. Of course, the examples you cite are typically borrowings by a corporation which, presumably, is borrowing the money in the expectation that they will earn a sufficient profit that they can pay off the interest obligations, repay the debt and still have some money left over for themselves. In those cases I see no danger involved in it. Indeed, our experience during the whole post-war period has suggested that large as the interest and divident payments we are making abroad might be, we have been able to do it without any trouble.

As to government borrowings, again I would think that private markets would be sensitive to dangers of Canadians over-extending themselves by simply refusing to buy our bonds or insisting on such high interest rates as to make it obvious that they were very risky investments. In fact, our borrowers have been welcomed quite heartily in foreign markets in 1975, as during the last several decades.

Senator Carter: Great Britain and Italy have got into trouble because the balance of payments got out of hand. Is there any rule of thumb whereby we could determine that in our case?

Mr. Kelly: I would not call it a rule of thumb, but one thing I mentioned earlier was to look at the deficit on current account as a proportion of GNP. In the cases of

Great Britain and Italy, those deficits as proportions of their gross national product have jumped quite astronomically during the last year or so. In Canada we expect that in 1975 it will be on the order of something under 4 per cent. That is not untypical; we reached that proportion for a considerable period during the 1950s also. So there is no evidence as yet of us being anywhere near any danger point.

The Chairman: If we should approach the danger point, it would also have the effect of us not only having difficulty borrowing at the interest rates, but with the dollar being forced down because of lack of confidence.

Mr. Kelly: Yes.

The Chairman: Yes; so long as the dollar remains high, it would seem that, much as it might be regrettable, we can continue doing this. In my opinion the dollar fluctuation is the ultimate regulator.

Senator Carter: Yes; it is not an unmixed blessing. It certainly hurts our imports and inflation.

The Chairman: Could I have, if the members of the committee agree, a motion that the chairman use some, not all, of these statistical papers in the publication of the evidence for today? It might be bulky and expensive to include it all, but by the same token I do not believe that the evidence of these witnesses would be too easily understood by a reader without certain of these statistical details.

Senator McElman: I move that you make a selection, Mr. Chairman.

Hon. Senators: Agreed.

The Chairman: As we will be facing this type of situation week after week, I might even go so far as to suggest that we have a general motion to that effect for the duration of this session.

Senator Carter: I so move for a general motion.

Hon. Senators: Agreed.

Senator McElman: Would the witnesses care to comment with respect to what is happening with multinationals today and the effect upon capital markets and balances of payments?

Mr. Kelly: I suppose one safe statement is that they have increased the amount of money flowing across international borders. Their effects in an economic sense are more hazardous to make a stab at. Certianly they are very controversial. My own inclination would be to say that they have done a lot in terms of increasing the efficiency of industrial organization. However, with that has come the side effect that their own power has allowed them in many cases to frustrate national policy in various countries.

Senator McElman: Chile, for example.

Mr. Kelly: I am sure you will find many examples of the effect of going against established, announced, government policies. We have this general trade-off. They are often an efficient method or type of organization for promoting economic activity, but they do, because of their multinational nature, transcend, and are able to escape, national policies.

Senator Cameron: Is there a tendency to increase the amount of borrowings by multinationals which is affecting our balance of payments situation?

Mr. Kelly: Mr. Carty might want to comment on that in a little more detail, but I would say offhand that the tendency for the Canadian capital account has been for relatively smaller corporate borrowings and corporate financial flows, especially in the last year or two. Going back over the whole of this period since 1950, it would be my guess offhand that government borrowing has accounted for a much greater proportion in recent years.

Mr. Carty: Governments in Canada are the large borrowers internationally. Sales to non-residents—this is to all countries—of new Canadian bonds in 1973, were about $1.3 billion, of which ohly $300 million was by corporations. Something over $1 billion was by governments. In 1974 the borrowing was something over $2.4 billion—that is, new issues by Canadians abroad. Less than half a billion of that was by corporations.

Senator Cameron: So about $1.5 billion is by governments?

Mr. Carty: Almost $2 billion in 1974, gross, by governments. To expand a little on the question of the multinationals, I think there are two factors here. The multinationals, particularly the large international corporations, are probably in a better position to borrow simple because of their size and the fact that they are known. On the other hand, because they are so large they generate tremendous amounts of savings internally. They have great resources available from their own cash flows which they can use in various parts of the world. So they may have relatively less need, in some sense, for external capital—that is, coming from outside the enterprise—than the smaller corporations. But they certainly do have access to the market, should they choose to do so.

Senator McElman: The impact is becoming greater all the time, when one considers that we have three or four Canada-based multinationals.

The Chairman: Perhaps the prices commisison will recommend that we should have several more, senator!

Senator McElman: The U.S., of course, has the greater proponderance of foreign multinationals.

The Chairman: I wonder if you would comment on whether or not this type of thing would be useful. I am not quite sure where to start; you have given us so much material. I find difficulty in putting my mind around it cohesively. One thing that would be of interest to me—if you do not have the figures, perhaps we could get them at a later date—is this business of foreign investment and what is, to the layman, the frightening thought of a $5 billion shortfall, coming this year in our balance of payments, being covered by importation of foreign capital.

I saw some figures some years ago that were reassuring to me. This would be 10 years ago. The figures spanned about 50 years of the total foreign investment in Canada as a percentage of the gross national product. I remember the figure in 1921, because that was the year I was born. It was something like 2.1 per cent of the gross national product, and 50 years later it was 2.2 per cent. In other words, it was relative to the gross national product not a frightening figure. There would then be the question of the rental we would pay for that total of foreign investment in both

dividends and interest from the private sector as opposed to government, on the assumption that presumably private borrowing is put to work in an earning capacity, so that we were making profitable use of it, whereas government borrowing of a similar nature would presumably be used for other than profit-making ventures, although it might well be into the infrastructure of the country.

Mr. Kelly: A lot of the borrowing is for hydro electric utilities.

The Chairman: Yes. Does what I am saying make any sense to you? First, I would ask, do you have such figures? It seems to me that they would be helpful in deciding just where Canada stands at the moment as a result of the years and years of the use of outside capital to help develop our economy. Have we, indeed, mortgaged the farm to too high and extent, or is the mortgage higher than it was 50 years ago, in comparative terms?

Mr. Carty: There are a number of ways in which these matters can be put into perspective. I think we can certainly do things along the lines you have suggested: the question of the earnings, the stock of capital, growth in GNP. There are some problems because of the effects of inflation on valuation. The stock of capital is valued partly in old dollars—particularly in respect of equity investment, which I take it you would want in this?

The Chairman: I did not mention that, but I should have. Equity investment is such an important part of that calculation, because of the self-generating effect which equity has, where you end up with the foreign equity owner borrowing money from a Canadian bank.

Mr. Carty: Equity values will frequently be made up of older dollars.

The Chairman: Which would need a new valuation put on them.

Mr. Carty: Yes. That we have not attempted to do at all.

The Chairman: Has finance attempted to do that?

Mr. Carty: I do not think so. We have attempted to try to build up, for the stock of foreign investment in particular industries, corresponding book values for all investment in Canada. So when you see some of those so-called ownership and control ratios based upon capital employed, the object of that is to give one more insight into the sort of questions you have been asking about what has been the long run consequences. That is another aspect.

The Chairman: Is it not possible to put a reasonable value on the equity by the rental paid for it through dividends and interest? I suppose not, because the subsidiary does not necessarily pass the profit through by way of dividend.

Mr. Carty: The amounts of profit that are retained by foreign controlled companies in Canada are very large indeed.

The Chairman: And are not known.

Mr. Carty: Not very precisely. There are projects to develop them. I think that the number currently would be to the order of $1 billion a year.

The Chairman: What I am discussing with you, in a sense, would be world figures; but, again, so much of it involves the United States. It is relative to the United States study, and it would be better if they related to the United States as opposed to world figures. I do not want to put you to unecessary work, but I wonder if it would be agreeable to members of the committee if I invited our economists to have some discussions with you and see if they can pull together some ball park figures that could be used as a basis on which to make a judgment as to how much further down this road we should go—and, again, ball park figures that might be used in a report to the public, where you could not, in such a report, make sense to the public in publishing the sort of detail now before us. I think it is a distillation of what we have been discussing here today that we must seek to arrive at.

Mr. Carty: There would be no problem that I can see. This is really relating more to the question which you addressed to Mr. Kelly concerning capital flows and their consequences. But there would be no difficulty in producing ballpark figures that would show this.

The Chairman: Because it seems, referring to Senator Carter's comment about England and Italy and the trouble they are having with a bad imbalance in trade, that they are near the brink of disaster. I have always, as a layman, had the homemade understanding that the reason we do not get into that type of trouble is not that we manage ourselves so much better than they do, but that we just have the resources in this country to back up our borrowings, and of course you can also argue that we need the extra borrowings in order to develop those resources. Of course if you are not developing a resource, then you would have to develop manufacturing, which would also require cash inflows of substantial amounts. I think the type of figures I mentioned a few minutes ago, in terms relative to 1920 and onward, might very well give us a view of the situation that would show that the situation in gross terms is not getting worse year by year. Anyway, I shall leave it at that for the moment.

Am I correct in my judgment relative to Mr. Kelly's department, because payments must balance out at the end of the year by one mechanism or another—that is to say, either by importing dollars, or trade; while your difficulty, Mr. Carty, I suppose is statistically trying to find all the components that make up that total. Do you, when you are through with these studies and surveys, arrive at totals that come pretty close? In other words, when you throw in the miscellaneous, what area are you trying to cover?

Mr. Carty: If I may go back to your first question, the way I find it useful to perceive the situation is that if you buy something, then you either pay for it, in which case you dispose of an asset, or you have not paid for it in which case you have really borrowed. So the debits and credits have to be equal. In the statistics, when we put them all together we are left with a residual, very large in recent years, which indicates that we are either overstating our receipts or understating our payments. We normally give an indication of this, although the series is not regularly published. In the last quarter, for example, which was not a particularly bad one, my recollection is that there was something of the order of $150 million that we could not explain. But the amounts have been very large, and have on occasions run up in a year to as high as $1.5 billion dollars. In this respect we seem to have a performance which is neither much better nor much worse than that of the United States. Relative to the size of our international payments, their errors and omissions and ours are approximately of the same order. It is a matter that gives us great concern and we are constantly working at it.

The Chairman: My point is that there is no mechanism through the banks or otherwise of cross-the-border transactions whereby every cheque that goes back and forth falls into some sort of a slot.

Mr. Carty: No. Even in the days of exchange control when all the transactions through the banking system were isolated in that way, there were still a vast number of other transactions which you could never catch through that source. The float of U.S. cash in Canada; the holding of travellers cheques by Canadians; the cross border movements in intercompany accounts; the misclassification and misidentification of residents and non-residents—these all played a part.

The Chairman: The amount that tourists spend, for example, is an estimate.

Senator Cameron: On that question I have often wondered how accurate are there estimates of otourist expenditures. Do you think it would be within five per cent accuracy or 10 per cent? The numbers are large.

Mr. Carty: The numbers are extraordinarily large. I would like to think it is a great deal closer than five per cent. In 1967—and on a number of occasions since—surveys were made of U.S. expenditures in Canada. This was rather a precise, scientific sampling type survey of returning Americans as they crossed the border. The results of that when related to the bureau's statistical results were in the aggregate very close. When you looked at sub-components by ports and that sort of thing we found differences but the amounts were very close. I have forgotten exactly, but they were within one per cent or somehting of that sort. I should not mention numbers here because I am relying upon memory; it was a long time ago. But I agree that it is a statictrial area that presents difficulty.

Senator Cameron: But this information is not being collected now, is it? You cross the border but you don't have to give this type of information.

Mr. Carty: Well, when you cross the border Immigration and Customs do a count, and we get those counts. When you return from Europe and you are given a coloured card which decides how you are going to be channeled, it afterwards comes to the bureau and the little ticks on it provide the basis of one sort of count. Then questionnaires are distributed for voluntary response. Those questionnaires are examined very carefully. They are matched into the sorts of categories of numbers used for the counts taken at the border and the averages applied to them. So we do everything we reasonably can without stopping people constantly at the border to ask questions.

The Chairman: Gallup, I think it has been established many times and with reason, claims an accuracy of three or four per cent, so I see no reason why we should not have the same.

Mr. Carty: But Gallup does have a controlled universe in that people have been carefully selected. We have an administrative base and a total count which is probably pretty good. But our response is greatly dependent upon the goodwill of those who fill in questionnaires. But if, by any chance, those people who voluntarily co-operate in filling in a questionnaire have a totally different expenditure pattern from those who reject the questionnaire, then there may be problems. So it is a different sort of statistical problem.

The Chairman: But it would still be, I think, reasonably accurate.

Mr. Carty: I believe so.

Senator McElman: I could not imagine more unreliable information than that given voluntarily by people crossing international borders as to what they have spent.

Mr. Carty: That is why the questionnaire itself is completely divorced from customs. It is handed out without any marks on it. It is mailed back in, and if the person goes to the trouble of filling in the questionnaire, then the likelihood is that he or she will do a good job. The real question is to what extent that person is representative.

Senator McElman: To what extent would you depend upon the provinces for information in this total field?

Mr. Carty: Not very much. We are really suppliers of travel information to the provinces. When the provinces carry out some special detailed surveys through statistical sampling and border interviews, they work closely with our travel people, and we endeavour to examine the results to see if they are consistent. If they become seriously inconsistent, then we become quite concerned. But we are not dependent on them as a statistical source.

Senator McElman: That is good. I can recall occasions when reports were being prepared at the provincial level and two people would get together and say, "How much will we jack it up this year?"

Mr. Carty: We were not unaware of that problem.

The Chairman: I wonder if I could take you to table 1 of the material you left with us today and just be sure that I understand it. When we refer to our trade with the United States as being $40-odd billion total both ways, we are referring to merchandise trade?

Mr. Carty: That is correct.

The Chairman: You have now put before us figures for merchandise trade of approximately $20 billion one way this year.

Mr. Carty: Yes.

The Chairman: It is in pretty good balance and, historically and usually, in our favour; is that reasonable to say?

Mr. Carty: I probably have that here. The trade balance we had in 1966 was a deficit, in round terms, of $1 billion with the United States. Then, in 1967 it dropped to approximately $600 million, and each year since then through 1974 we have had a surplus.

The Chairman: We will not have a surplus this year, largely because of the Auto Pact.

Mr. Carty: That is correct.

The Chairman: So if we are to come into total balance we must be very substantially ahead on our trade in order to make up for the services.

Mr. Carty: That is right.

The Chairman: And the service figure you show on table 1 includes dividends?

Mr. Carty: The make-up appears on table 2.

The Chairman: Yes, I see; total services, travel, interest and dividends, freight and shipping, other services and so on.

Mr. Carty: Yes.

The Chairman: So, servicing our debt is included in that figure?

Mr. Carty: That is correct.

The Chairman: Then transfers and total invisibles I understand. So we come to a net balance half-way down that page of minus $1.5 billion last year.

Mr. Carty: That is the current balance, yes.

The Chairman: Further down, capital movements; I assume that means into Canada?

Mr. Carty: Yes; I should have said that capital movement into Canada is a plus, it is a receipt.

The Chairman: So we brought in $1.679 billion in long-term and $800 million in short-term, which would be a total of $2.4 billion. Thus we would be $1 billion ahead at that point.

Mr. Carty: We are $1 billion ahead at that point.

The Chairman: Then, what is "balance settled by exchange transfers", or was that to bring it back?

Mr. Carty: No. I shall try to characterize it by one transaction. If we paid United States dollars held in the United States to a European in settlement of a purchase, or for investment, or for placement there with a bank, our claims on the United States would drop. In the table in the United States account we have minus $1.125 billion, and we have with other countries plus $1.125 billion, covering the claims on the United States that were employed in other countries. The settlement by exchange transfers cancels out for the world as a whole, as is shown there. So this represents the application in other parts of the world of some part of our receipts from the United States.

The Chairman: I am sorry; you will have to abide with my ignorance. I am quite clear down to the figure $811 million, at which point we are about $1 billion ahead in that year, if we ignore the fact that much of it is borrowed.

Mr. Carty: Yes.

The Chairman: Then you are including minus $1 billion; admittedly, this is with the United States.

Mr. Carty: That is right.

The Chairman: Does that mean we were plus $1.125 billion with all countries?

Mr. Carty: It really means that we used in other countries approximately $1.1 billion of our revenues and borrowing from the United States.

The Chairman: Yes.

Senator Carter: Did we use that to pay interest?

Mr. Carty: We used it in the sense of investment, or paying for goods or services. On balance for all our purposes $1.125 billion.

Senator Carter: That is government and corporations?

Mr. Carty: For all purposes. It is really a banking type of transaction. If we required to pay someone Swiss francs, this would normally be required by the disposition of U.S. dollars. If we put U.S. dollars into the Euro-dollar market and European banks they would disappear from our U.S. assets; it is a transfer.

Senator Carter: There is no relationship between these two columns, then, "United States" and "All Countries", for these long-term borrowings and short-term borrowings?

Mr. Carty: The difference between them is the transactions for non-U.S.

Senator Carter: Where do you get your $631 million; do you subtract 1,036 from 1,679?

Mr. Carty: The $631 million is made up of a capital inflow in short-term forms from the United States of $811 million and a capital outflow to other countries in short-term forms of $180 million.

The Chairman: I have just done a little arithmetic, if senators will follow me: if you take the figure of $1.679 billion and add it to $811 million, being our total capital movement in short-term forms, you will arrive at a figure of $2.490 billion. Then you take the next figure, minus $1.125 billion and subtract that from the $2.490 billion, arriving at $1.365 billion. Add $1.365 billion to our net change of $165 million to arrive at the figure of $1.530 billion, which is exactly the same as our current account transactions deficit; is that correct?

Mr. Carty: That is correct.

The Chairman: So, our actual shortfall, then, which would cover that debt was $1.530 billion.

Mr. Carty: That is correct, but we borrowed in total from the United States in that year $2.490 billion.

The Chairman: Yes, but we employed some of that profitably elsewhere.

Mr. Carty: That is correct.

The Chairman: So, our actual borrowings to cover shortfall, if you like, would be $1.134 billion.

Mr. Carty: That is correct.

The Chairman: "All Countries" is $1.6 billion.

Mr. Carty: That is correct.

The Chairman: So we were minus $100 million elsewhere?

Mr. Carty: Yes, in this particular year.

The Chairman: So the problem and the solution is all in the one place, the United States?

Mr. Carty: That is correct.

The Chairman: That helps me out.

Mr. Carty: It is worth remembering, however, that if we were to look at the other countries we would find that they also have a whole series of pluses and minuses and to say the problem is entirely with the United States is not quite correct.

The Chairman: I said the problem and added the word "solution." In other words, 90 per cent in that particular year was with the United States.

Mr. Carty: Yes.

The Chairman: That makes it a little clearer for me and I have no further questions. Do honourable senators have further questions?

I would like to thank both Mr. Carty and Mr. Kelly for coming and starting to help us get our feet wet in a fascinating area. I am sure that before we are finished we will have to come back to you on more than one occasion in an endeavour to get these points fully within our grasp so that we have a good base on which to pursue our study. I will simply look forward to receiving the advice of our staff economists as to whether they have had some conversations with you with respect to the comparative aspect of ownership in Canada over an historical period. Thank you very much for coming today.

The committee adjourned.

Table 1 The Canadian Balance of International Payments, 1974

Account	Transactions with United States: Receipts	Payments	Balance	All Countries: Balance
			(millions of dollars)	
Merchandise trade	21,607	20,605	1,002	1,519
Services	3,632	6,290	-2,658	-3,706
Transfers	288	162	126	544
Total invisibles	3,920	6,452	-2,532	-3,162
Current account transactions	25,527	27,057	-1,530	-1,643
Capital movements				
in long-term forms			1,679	1,036
in short-term forms			811	631
Balance settled by exchange transfers			-1,125	-
Change in official international reserves			- 165	24

Table 2: Canada's Transaction in Invisibles with the United States
millions of dollars

		1926	1929	1934	1939	1944	1949	1954	1959	1964	1969	1974
TOTAL INVISIBLES	receipts	311	380	295	436	591	748	954	1,195	1,662	2,669	3,920
	payments	366	461	323	424	891	971	1,314	1,880	2,489	3,986	6,452
	balance	- 55	- 81	- 28	+ 12	- 300	- 223	- 360	- 685	- 827	- 1,317	- 2,532
TOTAL SERVICES	receipts						717	887	1,111	1,534	2,460	3,632
	payments	not identified separately					915	1,209	1,724	2,291	3,809	6,290
	balance	(see final group below)					- 198	- 322	- 613	- 757	- 1,349	- 2,658
Travel	receipts	140	184	96	137	117	267	283	351	590	934	1,328
	payments	70	81	36	67	56	165	320	448	481	862	1,196
	balance	+ 70	+ 103	+ 60	+ 70	+ 61	+ 102	- 37	- 97	+ 109	+ 72	+ 132
Interest and dividends	receipts	12	30	20	27	42	40	70	97	190	260	490
	payments	138	202	189	220	203	325	346	547	850	1,143	1,914
	balance	- 126	- 172	- 169	- 193	- 161	- 285	- 276	- 450	- 660	- 883	- 1,424
Freight and Shipping	receipts	64	68	32	46	146	126	169	228	301	523	919
	payments	85	103	55	61	219	193	261	326	399	562	1,038
	balance	- 21	- 35	- 23	- 15	- 73	- 67	- 92	- 98	- 98	- 39	- 119
Other services	receipts						145*	210	287	308	743	895
	payments	not identified separately					232	282	403	561	1,242	2,142
	balance	(see final group below)					- 87	- 72	- 116	- 253	- 499	- 1,247
Gold production available	receipts	+ 30	+ 37	+ 114	+ 184	+ 110	+ 139	+ 155	+ 148	+ 145	...	...
TOTAL TRANSFERS	receipts						31	67	84	128	209	288
	payments						56	105	156	198	177	162
	balance						- 25	- 38	- 72	- 70	+ 32	+ 126
Inheritances and migrants	receipts						18	42	52	77	155	140
	payments	not identified separately					44	78	123	157	127	85
	balance	(see final group below)					- 26	- 36	- 71	- 80	+ 28	+ 55
Personal and institutional remittances	receipts						13*	25	32	51	54	148
	payments						12	27	33	41	50	77
	balance						+ 1	- 2	- 1	+ 10	+ 4	+ 71
Not identified separately	receipts	65	61	33	42	176						
	payments	73	75	43	76	413						
	balance	- 8	- 14	- 10	- 34	- 237						

* Personal and institutional remittances excluded pension receipts which were included with other services.

Table 2(a). Canada's Transactions in Invisibles with the United States
millions of dollars

		1949	1954	1959	1964	1969	1974
Subsidiary detail							
Interest and dividends	receipts	40	70	97	190	260	490
	payments	325	346	547	850	1,143	1,914
	balance	− 285	− 276	− 450	− 660	− 883	− 1,424
− Interest	receipts	7	15	31	71	107	297
	payments	84	108	179	302	568	823
	balance	− 77	− 93	− 148	− 231	− 461	− 526
− Dividends(1)	receipts	33	55	66	119	153	193
	payments	241	238	368	548	575	1,091
	balance	− 208	− 183	− 302	− 429	− 422	− 898
Other services	receipts	145(3)	210	287	308	743	895
	payments	232	282	403	561	1,242	2,142
	balance	− 87	− 72	− 116	− 253	− 499	− 1,247
− Government n.e.s.	receipts	19	93	99	84	148	115
	payments	11	26	22	32	50	83
	balance	+ 8	+ 67	+ 77	+ 52	+ 98	+ 32
− Miscellaneous Income(2)	receipts	19	23	62	57	191	115
	payments	19	25	81	132	286	524
	balance	−	− 2	− 19	− 75	− 95	− 409
− Business services, etc.	receipts	107	94	126	167	404	665
	payments	202	231	300	397	906	1,535
	balance	− 95	− 137	− 174	− 230	− 502	− 870

(1) Includes profits of branches of non-resident corporations except banks and insurance companies.
(2) Includes, in addition to income on short-term and miscellaneous long-term investments, all services associated with international banking and insurance operations. Due to intermediation between different geographic areas, including Canada, the levels of receipts and payments between Canada and abroad should not be taken to represent flows of net earnings.
(3) Includes pensions.

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Table 1A, "Other Service Receipts", by Area, 1973

Item	All Countries	United States	United Kingdom	European Economic Community	All other Countries
	millions of dollars				
Business services and other transactions:					
Survey results:					
Management and administrative services	45.3	31.7	7.2	2.9	3.5
Insurance premiums and other insurance transactions	43.6	17.5	19.4	3.6	3.1
Consulting and other professional services	40.9	24.5	0.5	0.4	15.5
Commissions	28.9	16.8	5.0	2.4	4.7
Advertising and sales promotion	14.7	12.8	0.4	0.4	1.1
Scientific research and product development	11.3	7.4	1.7	1.8	0.4
Royalties, copyrights, trademarks, patents	7.2	3.3	1.2	1.1	1.6
Equipment rentals	4.4	2.8	0.3	0.1	1.2
Franchises and similar rights	0.5	0.5	–	–	–
Other services	129.2	104.7	6.6	2.5	15.4
Totals, survey results	326.0	222.0	42.3	15.2	46.5
Other receipts not covered by survey:					
Commission agents	148.1	80.0	10.1	14.8	43.2
Foreign airlines expenditures and Canadian railways business service receipts	173.4	90.1	19.3	37.2	26.8
Commuters	66.5	66.5	–	–	–
Other insurance business	59.1	42.8	11.6	1.4	3.3
Miscellaneous and unallocated business service receipts	176.6	86.7	15.5	23.2	51.2
Totals, business services and other transactions	949.7	588.1	98.8	91.8	171.0
Government transactions	188.8	118.6	8.2	15.2	46.8
Miscellaneous income	424.0	103.0	177.0	33.0	111.0
Totals "Other service receipts"	1,562.5	809.7	284.0	140.0	328.8

Table 1B, "Business Service Receipts, by Country of Control", 1973

Item	Total			Canadian Controlled Enterprises			United States Controlled Enterprises			United Kingdom Controlled Enterprises			Enterprises controlled by other Countries		
	A.	N.A.	T.	A.	N.A.	T.	A.	N.A.	T.	A.	N.A.	T.	A.	N.A.	T.
	millions of dollars														
Management and administrative services	44.1	1.2	45.3	25.0	0.7	25.7	13.0	0.3	13.3	4.8	0.1	4.9	1.3	0.1	1.4
Insurance premiums and other insurance transactions	12.9	30.7	43.6	–	1.8	1.8	4.3	26.3	30.6	5.0	2.6	7.6	3.6	–	3.6
Consulting and other professional services	25.4	15.5	40.9	2.8	12.3	15.1	19.1	1.7	20.8	–	–	–	3.5	1.5	5.0
Commissions	20.0	8.9	28.9	2.3	1.1	3.4	12.3	3.6	15.9	2.0	4.0	6.0	3.4	0.2	3.6
Advertising and sales promotion	2.9	11.8	14.7	0.4	7.6	8.0	1.8	3.6	5.4	0.2	–	0.2	0.5	0.6	1.1
Scientific research and product development	10.6	0.7	11.3	1.4	–	1.4	7.2	0.5	7.7	0.3	0.2	0.5	1.7	–	1.7
Royalties, copyrights, trademarks, patents	2.4	4.8	7.2	1.1	1.4	2.5	1.1	1.9	3.0	0.1	0.5	0.6	0.1	1.0	1.1
Equipment rentals	3.5	0.9	4.4	1.0	0.7	1.7	2.1	0.2	2.3	–	–	–	0.4	–	0.4
Franchises and similar rights	0.5	–	0.5	–	–	–	0.5	–	0.5	–	–	–	–	–	–
Other services	103.0	26.2	129.2	1.9	10.8	12.7	98.9	1.9	100.8	1.9	1.1	3.0	0.3	12.4	12.7
Totals, survey results	225.3	100.7	326.0	35.9	36.4	72.3	160.3	40.0	200.3	14.3	8.5	22.8	14.8	15.8	30.6

Table 1C, "Business Service Receipts, By Industry Group", 1973

Item	Total			Manufacturing			Financial			Petroleum and Natural Gas			All Other		
	A.	N.A.	T.	A.	N.A.	T.	A.	N.A.	T.	A.	N.A.	T.	A.	N.A.	T.
	millions of dollars														
Management and administrative services	44.1	1.2	45.3	32.4	0.3	32.7	0.9	0.2	1.1	2.8	0.7	3.5	8.0	–	8.0
Insurance premiums and other insurance transactions	12.9	30.7	43.6	0.1	–	0.1	12.3	30.6	42.9	0.1	–	0.1	0.4	0.1	0.5
Consulting and other professional services	25.4	15.5	40.9	0.4	0.1	0.5	1.9	1.8	3.7	8.1	0.1	8.2	15.0	13.5	28.5
Commissions	20.0	8.9	28.9	8.4	1.5	9.9	2.6	6.5	9.1	0.1	–	0.1	8.9	0.9	9.8
Advertising and sales promotion	2.9	11.8	14.7	0.6	8.4	9.0	–	–	–	–	–	–	2.3	3.4	5.7
Scientific research and product development	10.6	0.7	11.5	9.1	0.3	9.4	–	–	–	0.8	–	0.8	0.7	0.4	1.1
Royalties, copyrights, trademarks, patents	2.4	4.8	7.2	1.1	3.9	5.0	0.1	–	0.1	–	–	–	1.2	0.9	2.1
Equipment rentals	3.5	0.9	4.4	0.4	0.2	0.6	–	–	–	–	–	–	3.1	0.7	3.8
Franchises and similar rights	0.5	–	0.5	–	–	–	–	–	–	–	–	–	0.5	–	0.5
Other services	103.0	26.2	129.2	98.2	7.5	105.7	0.2	0.2	0.4	0.2	0.1	0.3	4.4	18.4	22.8
Totals, survey results	225.3	100.7	326.0	150.7	22.2	172.9	18.0	39.3	57.3	12.1	0.9	13.0	44.5	38.3	82.8

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Table 1D, "Number of Business Service Receipts, by Value and Type", 1973

Item	Total	Under $100,000	$100,000 to $499,999	$500,000 to $999,999	$1,000,000 and over
Commissions	147	101	34	4	8
Management and administrative services	113	69	26	7	11
Royalties, copyrights, trademarks, patents	70	51	15	4	–
Consulting and other professional services	60	30	14	4	12
Advertising and sales promotion	29	11	10	5	3
Scientific research and product development	29	12	11	6	
Insurance premiums and other insurance transactions	28	10	7		11
Equipment rentals	16	11		5	
Franchises and similar rights	4	4		–	–
Other services	94	69	12	4	9

Table 2A, "Other Service Payments" by Area, 1973

Item	All Countries	United States	United Kingdom	European Economic Community	All other Countries
			millions of dollars		
Business services and other transactions:					
Survey results:					
Royalties, copyrights, trademarks, patents	216.5	194.8	8.9	8.1	4.7
Management and administrative services	186.7	179.6	2.2	2.2	2.7
Special tooling and other automotive charges	117.8	117.8	–	–	–
Scientific research and product development	114.7	101.4	0.9	5.1	7.3
Consulting and other professional services	89.0	81.3	3.1	2.2	2.4
Insurance premiums and other insurance transactions	82.4	31.1	40.7	6.5	4.1
Commissions	45.9	32.5	0.7	2.3	10.4
Film rentals	40.5	38.8	0.4	0.9	0.4
Advertising and sales promotion	31.6	28.7	0.3	2.4	0.2
Equipment rentals	24.0	22.9	0.1	0.7	0.3
Franchises and similar rights	8.0	7.3	0.4	–	0.3
Other services	36.4	31.0	0.6	1.0	3.8
Totals, survey results	993.5	867.2	58.3	31.4	36.6
Other payments not covered by survey:					
Commission agents	92.0	52.3	7.8	7.6	24.3
Service expenditures outside Canada of railways and airlines	220.6	121.9	25.6	21.2	51.9
Other insurance business	65.8	40.0	15.6	3.2	7.0
Miscellaneous and unallocated business service payments	279.1	191.7	26.4	33.3	27.7
Totals, business services and other transactions	1,651.0	1,273.1	133.7	96.7	147.5
Government transactions	258.1	67.1	17.9	107.4	65.7
Miscellaneous income	638.0	439.0	51.0	39.0	109.0
Totals "Other service payments"	2,547.1	1,779.2	202.6	243.1	322.2

Table 2B, "Business Service Payments, by Country of Control", 1973

Item	Total			Canadian Controlled Enterprises			United States Controlled Enterprises			United Kingdom Controlled Enterprises			Enterprises controlled by other Countries		
	A.	N.A.	T.	A.	N.A.	T.	A.	N.A.	T.	A.	N.A.	T.	A.	N.A.	T.
	millions of dollars														
Royalties, copyrights, trademarks, patents	185.6	30.9	216.5	6.3	7.8	14.1	161.3	15.6	176.9	10.0	5.6	15.6	8.0	1.9	9.9
Management and administrative services	175.1	11.6	186.7	7.4	4.4	11.8	161.5	5.9	167.4	1.5	0.6	2.1	4.7	0.7	5.4
Special tooling and other automotive charges	117.8	–	117.8	–	–	–	117.8	–	117.8	–	–	–	–	–	–
Scientific research and product development	106.2	8.5	114.7	5.6	1.5	7.1	92.4	4.6	97.0	0.4	1.7	2.1	7.8	0.7	8.5
Consulting and other professional services	48.6	40.4	89.0	0.5	23.5	24.0	43.6	10.1	53.7	0.7	1.3	2.0	3.8	5.5	9.3
Insurance premiums and other insurance transactions	28.8	53.6	82.4	1.8	6.0	7.8	8.9	46.4	55.3	11.1	0.8	11.9	7.0	0.4	7.4
Commissions	27.8	18.1	45.9	5.5	7.2	12.7	17.4	5.4	22.8	3.8	4.1	7.9	1.1	1.4	2.5
Film rentals	30.9	9.6	40.5	–	7.3	7.3	30.9	2.3	33.2	–	–	–	–	–	–
Advertising and sales promotion	12.7	18.9	31.6	0.3	7.8	8.1	12.1	10.9	23.0	0.1	0.1	0.2	0.2	0.1	0.3
Equipment rentals	17.5	6.5	24.0	–	1.6	1.6	15.9	4.4	20.3	1.6	0.3	1.9	–	0.2	0.2
Franchises and similar rights	4.1	3.9	8.0	–	1.6	1.6	3.4	2.2	5.6	0.4	–	0.4	0.3	0.1	0.4
Other services	26.4	10.0	36.4	2.5	3.8	6.3	20.2	3.3	23.5	0.4	0.9	1.3	3.3	2.0	5.3
Totals, survey results	781.5	212.0	993.5	29.9	72.5	102.4	685.4	111.1	796.5	30.0	15.4	45.4	36.2	13.0	49.2

Table 2C, "Business Service Payments, by Industry Group", 1973

Item	Total			Manufacturing			Financial			Petroleum and Natural Gas			All Other		
	A.	N.A.	T.	A.	N.A.	T.	A.	N.A.	T.	A.	N.A.	T.	A.	N.A.	T.
	millions of dollars														
Royalties, copyrights, trademarks, patents	185.6	30.9	216.5	145.2	24.4	169.6	–	–	–	2.3	2.8	5.1	38.1	3.7	41.8
Management and administrative services	175.1	11.6	186.7	122.7	43	127.0	9.9	0.9	10.8	6.7	0.9	7.6	35.8	5.5	41.3
Special tooling and other automotive charges	117.8	–	117.8	117.8	–	117.8	–	–	–	–	–	–	–	–	–
Scientific research and product development	106.2	8.5	114.7	79.1	1.9	81.0	–	–	–	17.7	5.2	22.9	9.4	1.4	10.8
Consulting and other professional services	48.6	40.4	89.0	12.5	6.4	18.9	0.3	1.3	1.6	8.0	11.9	19.9	27.8	20.8	48.6
Insurance premiums and other insurance transactions	28.8	53.6	82.4	5.3	5.7	11.0	21.3	41.4	62.7	0.5	4.9	5.4	1.7	1.6	3.3
Commissions	27.8	18.1	45.9	23.9	12.3	36.2	0.9	0.7	1.6	0.1	0.1	0.2	2.9	5.0	7.9
Film rentals	30.9	9.6	40.5	–	–	–	–	–	–	–	–	–	30.9	9.6	40.5
Advertising and sales promotion	12.7	18.9	31.6	9.7	10.7	20.4	0.2	–	0.2	–	0.3	0.3	2.8	7.9	10.7
Equipment rentals	17.5	6.5	24.0	4.6	3.8	8.4	–	1.0	1.0	0.3	0.8	1.1	12.6	0.9	13.5
Franchises and similar rights	4.1	3.9	8.0	2.6	2.4	5.0	–	–	–	–	–	–	1.5	1.5	3.0
Other services	26.4	10.0	36.4	13.0	2.8	15.8	3.6	0.2	3.8	2.8	2.3	5.1	7.0	4.7	11.7
Totals, survey results	781.5	212.0	993.5	536.4	74.7	611.1	36.2	45.5	81.7	38.4	29.2	67.6	170.5	62.6	233.1

A. – to affiliates N.A. – to non-affiliates T. – Total

Monday, July 14, 1975

Table 2D, "Number of Business Service Payments, by Value and Type", 1973

Item	Total	Under $100,000	$100,000 to $499,999	$500,000 to $999,999	$1,000,000 and over
Management and administrative services	1,087	780	245	42	20
Royalties, copyrights, trademarks, patents	761	429	245	40	47
Consulting and other professional services	456	353	78	13	12
Insurance premiums and other insurance transactions	299	248	26	10	15
Advertising and sales promotion	230	186	27	11	6
Scientific research and product development	227	141	56	8	22
Commissions	180	109	47	11	13
Equipment rentals	161	127	25	5	4
Franchises and similar rights	43	26	13	4	
Special tooling and other automotive charges	5	–	–	–	5
Other services	366	319	32	6	9

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FIRST SESSION—THIRTIETH PARLIAMENT
1974-75

THE SENATE OF CANADA

PROCEEDINGS OF THE

STANDING SENATE COMMITTEE ON

FOREIGN AFFAIRS

The Honourable GEORGE C. van ROGGEN, *Chairman*

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Issue No. 21

TUESDAY, DECEMBER 2, 1975

TUESDAY, DECEMBER 9, 1975

TUESDAY, DECEMBER 16, 1975

Respecting

CANADIAN RELATIONS WITH THE UNITED STATES

REPORT OF COMMITTEE

Entitled

CANADA—UNITED STATES RELATIONS

"Volume I—The Institutional Framework for the Relationship"

Thematic Index of the Committee's Proceedings during the
Second Session of the Twenty-ninth Parliament and the
First Session of the Thirtieth Parliament
that relate to the above-mentioned matter.

29612—1

THE STANDING SENATE COMMITTEE
ON FOREIGN AFFAIRS

The Honourable George C. van Roggen, *Chairman*

The Honourable Allister Grosart, *Deputy Chairman*

and

The Honourable Senators:

Asselin	Lafond
Barrow	Laird
Bélisle	Macnaughton
Cameron	McElman
Carter	McNamara
Connolly (*Ottawa West*)	Rowe
Croll	Sparrow
Hastings	Yuzyk

Ex Officio Members: Flynn and Perrault.

(Quorum 5)

Orders of Reference

Extract from the Minutes of Proceedings of the Senate, Wednesday, November 6, 1974:

"Pursuant to the Order of the Day, the Senate resumed the debate on the motion of the Honourable Senator van Roggen, seconded by the Honourable Senator Riel:

That the Standing Senate Committee on Foreign Affairs be authorized to examine and report upon Canadian relations with the United States;

That the Committee be empowered to engage the services of such counsel and technical, clerical and other personnel as may be required for the purpose of the said examination, at such rates of remuneration and reimbursement as the Committee may determine, and to compensate witnesses by reimbursement of travelling and living expenses, if required, in such amount as the Committee may determine;

That the papers and evidence received and taken on the subject in the preceding session be referred to the Committee; and

That the Committee have power to sit during adjournments of the Senate.

After debate, and—
The question being put of the motion, it was—
Resolved in the affirmative."

Extract: from the Minutes of the Proceedings of the Senate Thursday, 18th December, 1975:

"With leave of the Senate,
The Honourable Senator van Roggen moved, seconded by the Honourable Senator Grosart:

That the Standing Senate Committee on Foreign Affairs be authorized to publish and distribute Volume I of its Report on Canadian relations with the United States as soon as it becomes available, even though the Senate may not then be sitting.

After debate, and—
The question being put on the motion, it was—
Resolved in the affirmative.

Robert Fortier,
Clerk of the Senate.

Minutes of Proceedings

Tuesday, December 2, 1975
(22)

Pursuant to adjournment and notice, the Standing Senate Committee on Foreign Affairs met *in camera* at 2:10 p.m. this day.

Present: The Honourable Senators van Roggen (*Chairman*), Bélisle, Cameron, Carter, Connolly (*Ottawa-West*), Grosart, Lafond, Macnaughton, McNamara, Rowe and Sparrow. (11)

In attendance: Mrs. Carol Seaborn, Special Assistant to the Comittee.

The Committee continued its study of Canadian Relations with the United States.

The Chairman tabled a "Draft Report" for the Committe's consideration. This draft report was considered.

At 4:40 p.m., the Committee adjourned to the call of the Chairman.

Tuesday, December 9, 1975
(23)

Pursuant to adjournment and notice, the Standing Senate Committee on Foreign Affairs met *in camera* at 9:40 a.m. this day.

Present: The Honourable Senators van Roggen (*Chairman*), Carter, Grosart, Lafond, Macnaughton, McElman and McNamara. (7)

Also present but not of the Committee: The Honourable Senator McGrand.

In attendance: Mrs. Carol Seaborn, Special Assistant to the Committee.

The Committee continued its study of its "Draft Report" to the Senate respecting Canadian Relations with the United States.

At 11:10 a.m., the Committee adjourned to the call of the Chairman.

Tuesday, December 16, 1975
(25)

Pursuant to adjournment and notice, the Standing Senate Committee on Foreign Affairs met *in camera* at 9:40 a.m. this day.

Present: The Honourable Senators van Roggen (*Chairman*), Barrow, Carter, Croll, Lafond, Macnaughton, Rowe and McElman. (8)

In attendance: Mr. P. C. Dobell, Director, Parliamentary Centre for Foreign Affairs and Foreign Trade; and Mrs. Carol Seaborn, Special Assistant to the Committee.

The Committee continued consideration of its "Draft Report to the Senate" respecting Canadian Relations with the United States.

Further amendments to the Draft Report were considered and adopted.

The Report, as amended, was adopted subject to some re-phrasing by the Chairman.

On motion of Senator Carter,

Resolved,—That the Committee's Report to the Senate, entitled "Canada—United States, Relations—Volume I—"The Institutional Framework for the Relationship" be submitted to the Senate early in the New Year.

On motion of Senator Carter,

Ordered,—That 4,000 English copies and 1,000 French copies of the Committee's Report be printed in special booklet form.

At 11:50 a.m., the Committee adjourned to the call of the Chairman.

ATTEST:

E. W. Innes,
Clerk of the Committee.

Report of the Committee

Tuesday, December 16, 1975

The Standing Senate Committee on Foreign Affairs, to which was referred Canadian Relations with the United States, in obedience to its Order of Reference of November 6, 1974, has proceeded with that study and now presents the appended document as its first report entitled "Canada—United States Relations—Volume I—The Institutional Framework for the Relationship".

George C. van Roggen,
Chairman.



December 1975

Canada-United States Relations

VOLUME 1

The Institutional Framework For the Relationship

THE STANDING SENATE COMMITTEE ON FOREIGN AFFAIRS

Chairman: The Honourable George C. van Roggen

Deputy Chairman: The Honourable Allister Grosart

MEMBERSHIP OF THE COMMITTEE

(As of December 16, 1975)

THE STANDING SENATE COMMITTEE ON FOREIGN AFFAIRS

The Honourable George C. van Roggen, *Chairman*

The Honourable Allister Grosart, *Deputy Chairman*

and

The Honourable Senators:

Asselin	Croll	McElman
Barrow	Hastings	McNamara
Bélisle	Lafond	Rowe
Cameron	Laird	Sparrow
Carter	Macnaughton	Yuzyk
Connolly (*Ottawa West*)		

Ex Officio Members: Flynn and Perrault.

(Quorum 5)

Note: The Honourable John B. Aird served as Chairman of the Committee during its initial meetings on Canada-United States Relations from March until May 1974. Following his resignation from the Senate, the Honourable George C. van Roggen was appointed Chairman of the Committee.

Note: The Honourable Senators Aird, Deschatelets, Lapointe and Martin also served on the Committee.

ORDERS OF REFERENCE

(*Second Session—29th Parliament, 1974*)

Extract from the Minutes of the Proceedings of the Senate, Tuesday, March 26, 1974:

The Honourable Senator Aird moved, seconded by the Honourable Senator Grosart:

That the Standing Senate Committee on Foreign Affairs be authorized to examine and report upon Canadian relations with the United States; and

That the Committee be empowered to engage the services of such counsel and technical, clerical and other personnel as may be required for the purpose of the said examination, at such rates of remuneration and reimbursement as the Committee may determine, and to compensate witnesses by reimbursement of travelling and living expenses, if required, in such amount as the Committee may determine.

After debate, and—

The question being put on the motion, it was—

Resolved in the affirmative.

Robert Fortier,
Clerk of the Senate.

* * * * *

(*First Session—30th Parliament, 1974-1976*)

Extract from the Minutes of the Proceedings of the Senate, Wednesday, November 6, 1974:

Pursuant to the Order of the Day, the Senate resumed the debate on the motion of the Honourable Senator van Roggen, seconded by the Honourable Senator Riel:

That the Standing Senate Committee on Foreign Affairs be authorized to examine and report upon Canadian relations with the United States;

That the Committee be empowered to engage the services of such counsel and technical, clerical and other personnel as may be required for the purpose of the said examination, at such rates of remuneration and reimbursement as the

Committee may determine, and to compensate witnesses by reimbursement of travelling and living expenses, if required, in such amount as the Committee may determine;

That the papers and evidence received and taken on the subject in the preceding session be referred to the Committee; and

That the Committee have power to sit during adjournments of the Senate.

After debate, and—

The question being put on the motion, it was—

Resolved in the affirmative.

Robert Fortier,
Clerk of the Senate.

REPORT

of the

STANDING SENATE COMMITTEE ON FOREIGN AFFAIRS

on

CANADA-UNITED STATES RELATIONS

VOLUME I

"The Institutional Framework for the Relationship"

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Acknowledgements

In the preparation of this report, the first in a series on Canadian-American relations, the Committee owes a debt of gratitude to the witnesses, both Canadian and American, who kindly consented to give the Committee their time and the benefit of their expertise on various aspects of the study. These witnesses included both present and former Cabinet ministers, a provincial premier and a former state governor, former senior Canadian and United States officials, representatives from the private sector, academia and from the Canadian federal public service. For their willing co-operation we are most grateful.

I wish to record my thanks to all members of the Committee, my special appreciation for the support and advice of the deputy chairman, Senator Allister Grosart, and to acknowledge the valuable assistance of all members of the Committee staff.

An index of the proceedings of the Committee during 1974 and 1975 on which this report is based has been prepared by the Reference Branch, Library of Parliament. This index is available on request from the Clerk of the Committee.

George C. van Roggen

Part I

A. Introduction

The Standing Senate Committee on Foreign Affairs has undertaken to examine and report on Canadian relations with the United States. The purpose of this preliminary report is to put into proper perspective the basic framework by which the Canadian-American relationship functions. Before examining substantive areas such as Canada-United States trade, energy, transportation, communications, labour, financial and environmental relations, the Committee considered it necessary to identify the main institutional links, to assess their effectiveness as channels of communication, and to look at the efficacy of various techniques available for the conduct of the bilateral relationship. This report deals only with the institutional framework between the two countries.

Such mechanisms between any two modern states in close contact are likely to be complex. They are particularly so between two large federal democratic states existing side by side. They are usually taken for granted, apparently on the assumption that they function automatically. This is not the case. There are judgments to be made as to how issues should be handled and who should handle them which can have a major influence on the outcome of bilateral problems.

Accordingly, the Committee concluded that a thorough look at this aspect of the relationship was not only justified but was fundamental to future studies in this area. Moreover it considered that it behoved Canada, as the more vulnerable member of the North American arrangement, to ensure that the relationship did not suffer from inefficient communication or management on its part.

With this in mind the Committee heard expert witnesses from the federal and provincial governments, from the academic community, from the private sector, from Canada as well as from the United States.* They gave testimony on all aspects of the functioning of the relationship; the types and levels of the bilateral contacts, the joint mechanisms, the methods and machinery used for interdepartmental co-ordination, for bilateral consultation and for bilateral negotiations, the involvement of the provinces and the role of the private sector.

Because the Committee's objective was to identify the existing links and to assess the suitability of alternative procedures used in conducting relations, this report does not suggest a simplistic solution for the better management of all aspects of the relationship. Each situation usually has its own set of circumstances and the techniques used must be modified accordingly. For these reasons, the report has

*See Appendix II to this Report, page 87, for a list of witnesses.

sought to give sharper focus to the problems and constraints as well as the possibilities and opportunities in managing Canadian-American relations. Where the Committee found it possible to reach firm conclusions, it has done so and has made specific recommendations to remedy areas where it found deficiencies.

This report deals mainly with government-to-government contacts. It is important to recognize however that this is not the whole picture but only the tip of an iceberg. In the private sector, financial, business and private transactions are not statistically visible but number millions per month by telephone and mail alone, not to mention the enormously high number of daily border crossings. This interchange goes on largely independent of and beyond the control of governments. It is one of the basic strengths of the relationship. The Committee has sought to take this significant factor into account wherever possible, although it found it difficult to obtain specific testimony on its magnitude.

The dimensions and complexities of the links between our two countries can best be understood when set against the following brief survey of the range and scope of the relationship. In addition, the Committee has commented in general terms on the present character of the relationship which has undergone some change in recent years and sets forth some current problems.

B. The Range and Scope of the Relationship

Geography has imposed unique constraints and presented opportunities which affect the relationship between Canada and the United States. The two countries divide most of the continent and are isolated from other land masses by three oceans. They have a long common border and a number of contiguous coastal waters. Canada has a common frontier with only one country, the United States. It is on two fronts: to the south stretching along 3,500 miles; and to the northwest, the 1,500 mile long border with Alaska. Geography too, by its north-south land formations, has channelled the movements of people north and south across the border creating many close cross-boundary regional affinities. Climate and geography have combined to concentrate two-thirds of the Canadian population in a 100 mile-wide band of territory facing the American border predisposing them to a conscious awareness of the United States.

The history of the exploration and development of the two countries records frequent disagreement and open conflict. This has not prevented a parallel evolution in social, economic and, in most respects, political and judicial structures. In education and culture, Canada and the United States are fundamentally alike though Canada is a bilingual country. Ideas and cultural influences flow easily across the border. More important, the structures and institutions on both sides are mutually understandable. Significant differences, however, have emerged from the varied historical and social backgrounds which have produced distinctive identities in the two nations.

These geographic pulls and social and institutional parallels have meant easy movements and contacts back and forth by the peoples of the two countries. Family ties have rapidly multiplied, business and labour links have developed, professional and fraternal affiliations have grown and cultural, sport and tourist connections have become abundant. While measurement of these private linkages is almost impossible, in terms of numbers, cross-border visits now reach over 70 million annually of which 38 million are from the United States to Canada and 34 million from Canada to the United States. For Canada, with its much smaller population, this means that an enormously high concentration (96 percent) of all its people going outside the country choose to go to the United States. Some of the trans-border crossings have become permanent. At the present time, the Committee learned, it is estimated that approximately a million Canadian-born persons are living in the United States and about 400,000 American-born persons are living in Canada.[1]

Due to geography, history, the mingling of the two peoples and other factors, trade between the two countries has grown enormously. In 1974, cross-border trade reached the dizzying heights of $40 billion—more than between any two other countries in the world.

Canadian Trade with the United States

	Exports		Imports	
	(In $ million)	% distribution		% distribution
1970	10,900	64.8	9,917	71.1
1971	12,025	67.5	10,951	70.1
1972	13,926	69.4	12,877	69.0
1973	16,612	67.7	16,484	70.8
1974	21,590	66.5	21,065	67.3
1975 (9 mos.)	15,798		17,476	

For Canada, this means a market for over two-thirds of its exports, representing over one-third of all goods produced in Canada. For the United States, Canada constitutes one-fifth of its export market but this involves only two percent of all American-produced goods. The United States supplies two-thirds of all goods imported into Canada and Canada supplies one-quarter of all imports into the

[1]Arthur Smith (3:46)

Footnotes referring to Committee proceedings indicate the issue and page number of its proceedings of the first session of the 30th Parliament, 1974-75. Three exceptions which refer to an earlier session of 1974 are specifically identified by *Session 1974*

United States. Over one-half of Canadian exports to the United States are manufactured or processed goods, although two-thirds of these are automotive products.

The scale of the trading relationship can best be appreciated by comparing United States trade with other countries. Japan, which is the United States second largest partner, does about one half the trade with the United States that Canada does. American trade with all nine countries of the European Community, a group encompassing a population 10 times that of Canada, amounted in 1974 to slightly less than its trade with Canada alone. As the former American Ambassador to Canada, Mr. William Porter, said in a recent speech;

> "The Canadian-U.S. trade exchange, like other aspects of our relationship, remains the wonder and envy of a large part of the world. There is nothing like it in dimension or variety."[2]

While the Canada-United States ties in other areas may not be as striking as these in the trade field, they are nonetheless important and complex. As the Committee heard from Mr. Alan Hockin, vice-president of the Toronto-Dominion Bank, the financial ties between Canada and the United States are "extensive and close; much more so than between Canada and any other country."[3] This "close and pervasive linkage" he explained, arose not only from transactions of a purely financial nature such as the large borrowings and investments flows in both directions, but more importantly from the sheer volume of the bilateral export and import trade and the trade in services such as insurance, transportation and tourist trade. In addition, the link between the currencies is intensified for Canada since Canadian exports to other parts of the world are largely conducted through the medium of U.S. dollars.

Cross-border investment has provided an extensive and frequently controversial link between Canada and the United States. The book value of American direct investment in Canada now approaches $30 billion while the real value is estimated at $50 billion. This represents 80 percent of all foreign investment in Canada. As U.S. investment has come mainly in equity form, American control of Canadian industry is widespread. Well over half the Canadian manufacturing industry is now foreign controlled, mostly by Americans. In certain key sectors such as petroleum refineries, iron mining and certain machinery and electrical industries, the U.S. control is over 70 percent and in the motor vehicle industry it is over 95 percent.

Canadian investment in the United States, by comparison, is a more modest $5.6 billion, although on a *per capita* basis, statistics show a higher rate of Canadian investment in the United States than the reverse. But most Canadian investment in United States equity is in relatively small holdings, so that there are few cases of Canadians owning a controlling interest in American corporations.

The traditional balance of payments situation between the two countries shows a continuing Canadian deficit position. (See table below). Even in the exceptional

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[2]Winnipeg, CIIA, September 25, 1974

[3]Hockin (15:5)

years 1970-1972 when Canada had a merchandise trade surplus with the United States, its overall current account remained in deficit due to the substantial deficit in services which Canada always suffers.

In merchandise trade, Canada's surplus position of 1969-1972 has steadily decreased until it reached a low in 1974 of $53 million. Even so, it was only the large gains in the value of export of energy and petroleum products sold to the United States which erased a huge deficit of $1.3 billion on automotive products and prevented an overall merchandise trade deficit.

Canada's Current Account Balance with the United States
($ million)

	Merchandise trade balance	Non-merchandise transactions[4]	Current account balance
1969	472	– 1,317	– 845
1970	1,121	– 1,286	– 165
1971	1,209	– 1,491	– 282
1972	1,233	– 1,687	– 454
1973	814	– 2,071	– 1,257
1974	525	– 1,737	– 1,812
1975 (6 mos)	– 843	– 768	– 1,611

In the labour field, the close relationship existing between the trade union movements in Canada and the United States is without parallel anywhere in the world. About 60 percent of unionized Canadian workers belong to unions chartered by U.S.-based 'international' unions. Practically all of Canada's major export industries including the large industries in both primary and secondary sectors such as automobiles, steel and chemicals are governed by the terms of collective agreements with Canadian branches of U.S. affiliated unions. It is these major industry unions, however, that have tended to give the Canadian membership the widest scope for running their own affairs particularly in respect to such aspects as control over union expenditures in Canada and their own collective bargaining programme.

The current criticism aroused by Canada's oil export tax and higher gas prices to the United States has obscured the more important fact of the major linkages between the two countries in the energy field. Canada has been the largest foreign

[4]Includes service transactions, travel, interest & dividends, freight & shipping and other service transactions plus net transfers.

supplier of oil to the United States with exports reaching their peak of over one million barrels of crude daily in 1972. At its height this represented 29 per cent of U.S. crude oil imports. However, the Canadian percentage of U.S. crude oil imports has been falling owing to the cuts in Canadian deliveries and to the increasing dependency of the United States on imported oil.

For obvious reasons, virtually all United States imports of natural gas have come from Canada although this will change with the facilities for liquefying gas. While the approximately one trillion cubic feet which Canada has supplied during the past couple of years represents only about five percent of American consumption, it has amounted to more than 45 percent of total Canadian production.

The energy interdependency is underlined when one considers that Ontario steel mills and electric generating plants are dependent on Pennsylvanian coal, and Canadian refineries require the oil piped through transit pipelines in Maine and the American midwest. In the United States, the Pacific North-west area depends heavily on British Columbia natural gas and several northern states in the American mid-west have no source other than Alberta for natural gas and oil. At various other points along the border, a constant interchange of hydro-electric power takes place.

In the defence area, Canada has recognized, since World War II, its strategic dependence on its superpower neighbour in respect to external threats. Canadian defence arrangements with the United States are intimate and extensive. Indeed, a third of the major bilateral agreements with the United States relate to defence. The most important of these is the NORAD agreement which provides for close coordination of air defence of the continent—a response to a threat which is diminishing with the increasing Soviet and American emphasis on missiles. Defence co-operation began in 1940 with the establishment of the Permanent Joint Board on Defence. The principle of economic co-operation to support joint defence was enunciated in the Hyde Park Agreement of 1941 and it has been reaffirmed in varying forms since that time. The current defence production sharing arrangements worked out in 1959, have resulted in extensive reciprocal military purchases bringing mutual benefit in terms of reduced costs for military procurement, in keeping Canada abreast of advanced technology in aerospace and electronics and in providing the Canadian electronics industry with a significant outlet.

Much has been written about the cultural interaction between the two countries, particularly the impact of American culture in all its forms on Canada. Books, magazines, newspapers, radio, T.V., movies and theatre pour northward across the border to a ready Canadian market. A 1974 survey showed that over one-fifth of all television viewing hours by Canadians are devoted to American stations, either off-air or by cable. An earlier survey of audience preference revealed that 54 per cent of Canadians preferred American T.V. stations to Canadian stations and 60 per cent preferred American programmes to Canadian programmes. By its massiveness, the American cultural flood has threatened the development of the home-grown Canadian product leading to Canadian federal support or statutory and regulatory

protection in certain fields. Nevertheless, the American penetration has resulted in a widespread acceptance in Canada of American tastes, standards and products, a development viewed by some Canadians as a mixed blessing.

Geography has imposed an environmental interdependence on the two countries which is unique. From the Skagit and the Columbia in the west to the St. John and the St. Croix in the east stretches the most complicated and longest river and lake system between any two countries in the world. Environmental concern over pollution and floods in these rivers and lakes inevitably spreads across the boundary. Protracted bilateral negotiations now take place over the damming, the direction, the quality and the usage of this lakes and rivers system. Key to the resolution of many of these problems has been the work of the oldest Canadian-American institution, the International Joint Commission. In addition, the contiguous coastal waters are increasingly the focus of the external policies of the two countries in their concern for fisheries, pollution and mineral resources in the continental shelf areas.

This brief catalogue of the range and scope of the relationship between Canada and the United States is far from complete. Even so it illustrates the unusually high degree of interaction and interdependence between the two countries. It is not a relationship of equals. The United States has 10 times the population and over 10 times the gross national product of Canada. In military terms it is a superpower, in economic terms a giant. **Because of this disparity, Canada is more dependent, more sensitive and more vulnerable to the state of the relationship than is the United States. For Canada, it is by far the most important of all its external relationships.**

C. The Changing Concept of the Relationship

In recent years the Canadian-American relationship has undergone a change, due partly to external and partly to internal factors. Dating from 1970 and most certainly from August 1971 a new perception of each country's national interests developed, accompanied by an increasing divergence of national policies. Both countries reviewed their foreign policies and discovered they were at the end of an era, not merely in so far as each other was concerned but in the context of a changing world order. In an international climate of growing economic blocs and increasing economic and monetary ills, both countries were inclined to guard their own domestic health more protectively. The good relations of the past could no longer be taken for granted.

In practice this has meant that while Canada and the United States acknowledged the benefits derived from their huge bilateral trade, there was a new sharper edge to Canadian-American negotiating on trade and economic matters. As recognition of the finite quantities of resources grew, new conflicts and tough bargaining arose from bilateral energy trade arrangements and any suggestions of continental resource sharing caused extremely negative Canadian reactions. Increased environmental concerns have sensitized both sides to irritants along the border and the

contiguous coastal areas. On both sides of the border, but at different times since 1970, there has been a viewpoint that special bilateral arrangements such as the auto pact, while bringing many benefits, have also produced unexpected dislocations. Canadians have worried about and have now legislated against the high degree of foreign, mostly American, ownership and control of their manufacturing and resource industries as well as the continued extraterritorial application of U.S. laws and regulations in Canada.

In Canada, while these perceptions were working themselves out, the government formulated a new strategy paper for its relations with the United States. Known as 'the third option' paper, it set Canadian policy on a conscious course of attempting to lessen the vulnerability of its economy from the impact of the United States by developing closer relations with other parts of the world, notably Europe and Japan. The government's prospects and possibilities for diversification, however, were somewhat dimmed by the heavy impact which the energy crisis and inflation have had on the European Community and Japan, as well as on Canada itself.

The "third option" paper set a new tone for Canadian policy "of living distinct from but in harmony with the United States"[5] which, when coupled with Canadian policy initiatives based on domestic needs and the new perceptions of the national interest on both sides of the border, has resulted in a perceptible change in the relationship. Whereas, in earlier days, bilateral relations had hinged to a large extent on the actions of the United States, now the relationship is increasingly affected by Canadian policy actions, many of which are perceived in the United States as being contrary to United States' interests. Prime examples of such Canadian actions are related to the price and supply of energy, the restrictions on foreign investment, the regulation of TV and cablevision programming of US origin and non-tariff barriers in cultural and other areas.

Have the changing circumstances and the new perceptions meant an end to the "special relationship" between the two countries? The problem has been to analyze what the "special" quality really meant. No incident provided a better illustration of the demise of one aspect of the "specialness" than the events surrounding the American government's refusal of the Canadian request for exemption from the 1971 American economic measures. As seen from Washington's point of view, Canada had contributed seriously to the American balance of payments deficit and had not been willing to help at a time of need. As seen from Ottawa, Canada had not been guilty, as the United States claimed, of unfair exchange rates or discriminatory restrictions against American imports. Canada was being unjustly penalized just because of a favourable merchandise trade balance, which was, in any case, more than offset by the debit on services and invisibles so that the overall current account showed a Canadian deficit. When the issue had cooled, Canada recognized that preferential treatment such as it had sought and received in the post-war period

[5]Sharp, (1:9) session 1974

would become a lessening factor in negotiations between the two nations. Washington considered that special accommodation for Canada was no longer justified and proceeded to demand a demonstrable equality of benefit from the bargaining table.

Witnesses before the Committee have pointed out however that there are other aspects of the special relationship which remain. Dr. Maxwell Cohen, Chairman of the International Joint Commission observed "the common frontier is a geophysical fact, a 'special relationship' however we interpret that phrase today."[6] Indeed, as has already been noted, the long and complex physical boundary unites the two nations in common solutions to problems concerning water quality, water levels, air quality and related land use problems. Professor Peyton Lyon of Carleton University pointed to the many existing structures, institutions and arrangements which tie the two countries together in a special way. As this report has already detailed, the range and scope of the bilateral contacts in trade, energy, financial institutions, cultural interactions are enormous, complex and undoubtedly "special" in the sense of "unique". There is also the special quality of the relationship which exists between the two peoples because they live on the same continent, share much the same type of climate, similar democratic institutions, similar life-styles, similar means of communications and similar ways of doing business.

Finally, as Professor Lyon observed, there is a third aspect to the special relationship which is perhaps the most important of all. It concerns the procedures or the style of conducting official business between Americans and Canadians. Professor Lyon elaborated:

> " 'Special' in this sense means easy, informal, extensive, responsive and in short friendly; on both sides the masses still refer each to the other country as 'our best friend' and act accordingly."[7]

It means easy communication through a common language and common values. There is a strong disposition to regard interests as compatible, to consult over differences and to let facts resolve the issues wherever possible.

How, the Committee asks, in the light of the geographic ties, the affinities and interchange of the two peoples, the ease of communications, the similar institutions, and the extent of trade, cultural and other links can the relationship be considered anything but a "unique" one? Canada no longer seeks a "special treatment", but it cannot deny a "special relationship" does exist with its southern neighbour.

D. Current Problems

Because of the intense interaction between the two countries already described, an enormous number of bilateral issues are constantly developing which must be

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[6]Cohen, (6:22)
[7]Lyon, (9:6)

dealt with at the inter-governmental level. Some are resolved easily and amicably. Others become dormant or solve themselves. Some become problems which require careful negotiating or tough bargaining to resolve. Still others prove insoluble and become problems which both countries must learn to live with.

The international economic climate is becoming more and more complicated and at times competitive. A growing number of Canadian domestic actions are having a spill-over effect on the United States and vice versa. The problem areas between the two countries continue to increase both in number and complexity.

Not all the complaints are on the Canadian side as many Canadians seem to think. Some of the areas of difficulty or concern for one side or the other in recent years include:

(i) *Energy Concerns*

(a) Complaints by the United States that Canadians are charging more for exported natural gas than is charged on the Canadian domestic market.

(b) American objections that, on the west coast, where there has been an unanticipated shortage in the British Columbia natural gas supply, the shortfall has not been prorated amongst the Canadian and U.S. consumers with long term contracts but has been passed on instead to U.S. consumers only.

(c) American complaints concerning the Canadian export tax on oil which results in the United States being charged more for oil than is charged on the Canadian domestic market.

(d) American objections concerning the rapidity and scale of the cutbacks in oil exports to the United States.

(e) Canadian objections to the U.S. embargo against the importation of uranium, including Canadian uranium, into the United States.

(ii) *Trade Concerns*

(a) American objections to the Canada-U.S. Automotive Agreement or to the Canadian safeguard clauses in that agreement. Canadian objections to the current unfavourable trade balance under the pact particularly involving auto parts.

(b) A broad range of industry incentives as employed by both countries which the other country perceives as giving the industry concerned an unfair competitive advantage in respect to exports. Examples would include the U.S. Domestic International Sales Corporation (D.I.S.C.) or Canadian regional development programmes.

(c) A variety of policies, legislations, regulations or practices of both countries which are perceived by the other side as being non-tariff barriers, that is, having the effect of restraining imports. Examples would include government procurement policies or quantitative restrictions.

(d) Beef import quotas which have recently been applied by both sides after many years of free access.[8]

(e) Canadian import quotas for eggs and turkeys on which the United States is appealing to GATT for a ruling.[8]

(f) Canadian complaints over the U.S. copyright law which effectively prevents the Canadian book industry from competing in the United States.

(g) Canadian objections to the application of U.S. anti-dumping regulations and the imposition of countervailing duties, for example, against the export of Canadian tires made by a Michelin subsidiary company.

(iii) *Environmental Concerns*

(a) Canadian concern over the pollution risks from tankers bringing Alaskan oil into Puget Sound in the State of Washington. Canadian objections to the establishment of a refinery by a U.S. oil company in Eastport, Maine which would require tankers to pass through constricted Canadian waters.

(b) Canadian concern that the United States is not meeting the commitments it made under the Great Lakes Water Quality Agreement to clean up the Great Lakes.

(c) Differences of opinion on both sides concerning effective regulation of water levels of the Great Lakes.

(d) Differences as to how to meet the present and future needs of the inhabitants, both Americans and Canadians, of Point Roberts in the State of Washington in respect to roads, water supplies, services, sewage etc.

(e) Differences over whether to proceed with an earlier British Columbia commitment to allow the provision of more power to Seattle, in the State of Washington by raising the High Ross Dam. This would involve extensive flooding in the Skagit Valley in British Columbia.

(f) Canada's objections to the Garrison Irrigation Diversion project in North Dakota which it considers a pollution hazard to property and waters in Manitoba.

(g) American concern that projected coal mining on the North Fork of the Flathead River in British Columbia could result in transboundary pollution in Montana.

(h) Differences over whether a projected dam should be proceeded with on the Richelieu River at the outlet of Lake Champlain just north of the international boundary in Quebec.

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[8]Since the adoption of the report, both sides have withdrawn the beef quota and GATT has given a ruling favourable to Canada on eggs.

(iv) *Business Concerns*

(a) American concern that Canadian screening of foreign takeovers and of the establishment by foreigners of new businesses or expansion of existing foreign-controlled enterprises in Canada under the Foreign Investment Review Act might prove injurious to American interests.

(b) American objections to the policy of the Canadian Radio and Television Commission encouraging or requiring the deletion of commercials in the cable transmission of programmes originating in U.S. stations across the border.

(c) American objections to the proposed changes in the Income Tax Act which would disallow tax deduction on advertising by Canadians in U.S. television and radio stations and terminate the special exemptions made for Canadian advertisers in Canadian editions of *Time* and *Reader's Digest*.

(d) Canadian objection to the extraterritorial application of certain U.S. legislation as channelled through the parent subsidiary corporative link, for example, the recent difficulties raised concerning Canadian sales of locomotives and furniture to Cuba under the U.S. trading-with-the enemy legislation.

(e) Canadian irritation at the indirect application of U.S. laws and regulations on Canadians by means of private corporate decisions of the parent company. For example, the instructions by American parent companies to their Canadian subsidiaries not to make contributions to political parties, a practice illegal in the United States but legal in Canada.

(v) *Miscellaneous*

(a) The four salt water boundaries between Canada and the United States, one on the east coast, two on the west coast and one in the Arctic, none of which has been settled beyond the three mile limit.

(b) Conflicting claims as to the ownership of Machias Seal Island in the Gulf of Maine.

(c) Canadian objections to land purchases by Americans in several regions of Canada. American objections to land purchases by Canadians in the State of Washington.

(d) American and Canadian differences in fisheries matters off the east and west coasts and on Lake Erie. For example, disputes over the number of salmon taken by each side off the west coast, or differences over the fisheries closing lines off the east and west coasts.

(e) Differences pertaining to the status of the Northwest Passage.

(f) Disagreement over Canadian application of anti-pollution standards in the Arctic and other ice covered waters.

(g) American objections that the Canadian allowances for tourists visiting the United States are not as generous as those allowed to American tourists visiting Canada.

This list of some of the existing problems or irritants between Canada and the United States is by no means a comprehensive one. Moreover, in this present preliminary report on Canadian-American relations, the Committee makes no attempt to comment on or judge the merits of these problems. Many of them will be dealt with in future reports on specific areas of policy.

The list serves, however, to illustrate the importance of the subject to which the present report addresses itself, namely, the mechanisms and channels by which Canada and the United States conduct their relationship. With such a range of complex issues to be dealt with continually by the two countries, it becomes of increasing significance to ensure that the best channel of communications is used, and that the most effective technique for negotiation is employed and that there is careful co-ordination of approaches in different policy areas.

An important factor affecting the ways in which these problems are viewed is the general climate of public opinion in each country regarding the other. As Professor Lyon pointed out, American mass opinion, while still uninformed about Canada, remains basically benign and "presents no problems in the conduct of good congenial relations between the two countries".[9] The same is not the case on the Canadian side where there has been in recent years, a rising nationalist concern especially over American control of the economy. While the Committee has heard little testimony on this subject as yet, it noted with interest Professor Lyon's doubt that Canadian nationalism is, in fact, as deeply felt as the government seems to have perceived. In the Committee's opinion, the nationalist climate can affect, detrimentally, how Canada approaches some of the current problems between the two countries. The Committee was concerned by Professor Lyon's assessment that

> "it would be difficult in the present climate to come up with proposals for new co-operative measures with the Americans."[10]

It is the Committee's opinion, that in a nationalist atmosphere, the Canadian government must go out of its way to ensure that difficult problems are handled in as balanced and mature a fashion as possible. There should be a continual awareness by government of the danger of an over-response to nationalist sentiment in its decision-making. Further, it is important that the government be fully conscious of the number and variety of issues in contention between the two countries at any one time. While keeping the totality of these problems in mind, the government should carefully assess the more pressing ones and establish priorities for handling them. Once the priorities have been established, policy choices must be made as well as the strategy and techniques for proceeding. The Committee urges the government to be ever mindful of setting a constructive tone. Style and timing, as several witnesses before the Committee pointed out, are key elements in creating an atmosphere conducive to co-operation and problem solving.

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[9]Lyon (9:8)

[10]Ibid

Part II: CHANNELS OF COMMUNICATION

"Communications are often difficult, even between friends."[11] With the objective of improving communications between Canada and the United States, the Committee has evaluated various institutions and channels available both at the governmental and legislative levels for communicating and negotiating with the United States.

1. Summit Contacts

Of all the bilateral contacts, it is those at the top, the meetings between Canadian prime ministers and American presidents, which catch the headlines. Over the past half-century there have been 61 such high-level meetings.[12] Their value has been mainly symbolic, public manifestations of the two countries' friendship and common interests. They reassure Canada that it is neither being ignored nor trampled on by its powerful neighbour but being treated in the accepted, dignified and traditional international way.

Summit diplomacy, as Mr. Rufus Smith, a former senior official in the U.S. State Department, has pointed out, is a mechanism to be used at the beginning of a tenure of a new prime minister or a new president to establish, early on, a personal contact which may prove helpful later in an emergency situation. With the ease of communications and the common language and traditions between the two countries, there is a likelihood that in an emergency such a contact would be quickly sought. But as the Hon. Jean-Luc Pepin former Minister of Industry, Trade & Commerce warned, personalities are important in summit encounters. As long as the meeting results in warm and friendly personal relations, a positive tone is set for the staffs on both sides for their guidance in future bilateral contacts. But if personal rapport is lacking, a worsening of relations can permeate down the ranks.

Meetings between the two leaders can be useful in keeping each side abreast of the other's thinking by a "frank exchange of views", the perennial words of the formal official joint communiqués, on bilateral and multilateral issues. They can also be used effectively to highlight the conclusion of bilateral agreements as when Prime Minister Pearson met President Johnson in Texas in 1965 to sign the auto pact or Prime Minister Trudeau and President Nixon signed the Great Lakes Water Quality

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[11]Davis (8:5)

[12]R. F. Swanson, *Canadian-American Summit Diplomacy 1923-1973*, McClelland and Stewart Limited, Toronto, 1975

Agreement in 1972. The attendant publicity assists the governments in underlining the importance of such agreements.

As several witnesses before the Committee pointed out, "summitry" can be overdone.[13] With too-frequent use, its symbolic or ceremonial value diminishes and there is a danger it will be viewed only as a cosmetic political exercise. With the inevitable publicity and press-awakened anticipations, commitments are sometimes made or rhetoric indulged in which cannot be carried through. As a case in point, the joint affirmation after the 1969 Nixon-Trudeau meeting which spoke of the beginning of "a new era of consultation between Canada and the United States"[14] was shortly followed by Canada's unilateral Arctic declaration and President Nixon's decision to impose his stringent unilateral economic measures in 1971.

The Committee agrees with those witnesses who warned that summit meetings should not be thought of as the mechanism for negotiation of serious bilateral problems demanding complex solutions. A former senior American State Department officer, Mr. Robert Schaetzel, was "fearful of the conversion of international affairs into personal relations" and he warned that,

> "This is an essentially dangerous way to approach the highly complicated relations among millions of people and large institutions."[15]

National leaders have little time to become sufficiently well-versed in the details of specific issues for meaningful bargaining to take place and it is difficult for negotiations at the top political level to remain secret, especially in the United States. Further, if the two leaders were to lock themselves into rigid negotiating positions, it would be politically difficult for either to make public concessions. And if there is an impasse at this top level, where else is there to go? Relations could be soured for a lengthy period if a crisis were dramatized in this way at the highest level.

The Committee recognizes that there are occasions when summit meetings can break an impasse encountered at the lower levels. In December 1971 when Canadian negotiators faced an intransigent Secretary of the U.S. Treasury John Connally who did not accept Canada's arguments for concessions on the surtax or auto pact issues, Prime Minister Trudeau met Mr. Nixon in Washington. No bargaining took place. But in approaching the President directly and explaining Canadian long-term philosophical concerns about the U.S. actions, the log-jam was broken. In Prime Minister Trudeau's words the main result of this summit contact was a "psychological" one.[16] U.S. officials were subsequently obliged to take their cue from the President and listen to the Canadian viewpoint. The Canadian position was confirmed in the subsequent international monetary settlement. At the next summit

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[13]Pepin (11:8) and Schaetzel (2:7)

[14]Swanson, op. cit. p. 273

[15]Schaetzel (2:7)

[16]Press Conference PMO, 7 Dec. 1971

meeting in Ottawa, the President answered the Prime Minister's concern more formally when he addressed the Canadian Parliament in Ottawa in April 1972. A Committee witness, Mr. Rufus Smith, characterized the Nixon assurances in Ottawa as "very very important as policy statements on the part of an American President that had not been said, at least publicly before . . . it helped clear the air quite a bit."[17]

Summit Speech-Making

Inevitably when the two leaders make trips to each other's country there are occasions for speech-making. However these opportunities also present pitfalls. In particular there is the danger that the speaker may appear to be telling the other country how to conduct its affairs, as President Kennedy inadvertantly did in the House of Commons in 1961 in referring to Canadian membership in the Organization of American States. This had the direct effect of stiffening Canadian resistance to the idea instead of encouraging it. Similarly, Prime Minister Pearson's 1965 Temple University speech in Philadelphia on U.S. bombing of North Vietnam was badly received by President Johnson.

In connection with Prime Ministerial visits to the United States, the Committee has noted a curious omission. No Canadian Prime Minister has ever addressed the U.S. Congress although it is almost an established custom for an American President to address the Canadian Parliament. Many other heads of government have been given this opportunity in the United States in the past.[18] **In view of the close bilateral relationship and the ease and frequency of top-level encounters between Canada and the United States, the Committee considers that the possibility of a future address to Congress by a Canadian Prime Minister should be explored.**

2. Ministerial Contacts

At the next level—the ministerial level—there are two main channels available:

a) the one-to-one encounter when a Canadian Cabinet minister deals directly with his Washington counterpart;

b) the meeting of a Canada-United States joint ministerial committee when several Cabinet officers from both capitals are assembled on subjects relevant to their responsibilities.

The Committee heard testimony from expert witnesses, including several former Cabinet ministers, on the advantages and disadvantages of direct ministerial dealings

[17]R. Smith (5:15)

[18]The most recent address was by President Sadat of Egypt in October 1975. Some heads of government who have addressed the U.S. Senate and/or House of Representatives are: the United Kingdom, Australia, South Africa, Federal Republic of Germany, Italy, Greece, Japan, Israel, India, Pakistan, Ghana, Nigeria, Ethiopia, etc. Two Governors-General, Lord Tweedsmuir and the Honourable Vincent Massey addressed Congress in 1937 and 1954 respectively.

with Washington at this level. Neither the Joint Ministerial Committee on Trade and Economic Affairs nor the Joint Committee on Defence have met since 1970 and 1964 repectively. The Committee heard arguments as to whether or not this joint institution should be revived.

a) One-to-One Meetings

With easy phone and travel communications for ministers between the two capitals it is inevitable that the one-to-one ministerial level contacts have been increasing and are now an accepted way of doing business. The Committee appreciated a former Cabinet minister's enthusiastic advocacy of the direct approach as a way of cutting through bureaucratic red tape. In his testimony, the Hon. Jack Davis former Minister of the Environment warned that

> "big departments, often competing with one another, and layer upon layer of diplomats have made easy relations a thing of the past. The sight of big issues, frequently, is lost in a sea of words. Decision-makers are kept apart. Both sides are agitated by endless static on the one hand and mountains of heavy reading on the other."[19]

Ministers, he said, could make the complicated relations with the United States less complicated and could deal directly with issues by working closely with their opposite number in the United States. With his counterpart, Mr. Davis said he had established a regular six-month pattern of meetings which were held with a minimum of fanfare, preferably unannounced, with no press conferences laid on. Scheduled press conferences usually engender anticipation of some major pronouncements whereas his meetings were by their nature often exploratory and the outcome often unsure. The former minister also explained how he often has useful official and unofficial direct talks with his American counterpart at multilateral conferences.

> "On these occasions we went over our own list of irritants and talked about policies of common concern for the future. We tried out ideas on each other. We got some feel, quickly, as to their political acceptability. Often we were able to narrow the field immensely. We were able to tell our officials either then or when we got home, what many of the real parameters were. We did not leave them nervously groping for ideas and solutions in the political arena . . .[20]

The former minister stated that the Prime Minister had given him "a free hand" to talk to his American opposite numbers and that he had kept External Affairs informed. He had expressed opinions at these meetings and on occasion had given oral commitments.

> "The important thing was to communicate.—communicate basically in the area of policy making, with details and protocol taking a back seat most, if not all, of the time."[21]

In contrast to this enthusiastic endorsation of the one-to-one ministerial approach, the Committee heard witnesses who were more sceptical and warned of

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[19]Davis (8:5)

[20]Ibid (8:6)

[21]Ibid (8:5)

the dangers and disadvantages of this channel. The Hon. Jean-Luc Pepin considered that Canada should resist tackling problems at higher levels.

> "As a rule, that is wrong. Mind you, at times it takes a lot of intelligence and will on the part of political leaders to resist that temptation. How many times in recent years has the press said, 'The Prime Minister should go down to Washington and settle this or that matter? How many times have they said 'The Minister of Industry, Trade and Commerce, or the Minister of Finance should go down and solve the problem?' That temptation should be resisted because problems have a way of clarifying themselves on the way up that invisible ladder."[22]

Mr. Pepin was dubious about the value of establishing personalized relations with Washington counterparts. Although there were some advantages in terms of access and receptivity to arguments, he warned that "the desire to be liked can affect one's judgment to a certain degree and also there may be some misunderstanding created by the quality of the smile or the warmth of the reception."[23] He considered that the establishment of mutual respect was more important than close personal relations. It was dangerous, he said, for ministers "to fly down or grab the telephone, unless they have rehearsed their call or speak from notes or take notes."[24]

The apparent conflict between the approaches of these two former Ministers can be explained in part by the subject matters with which they were dealing. Some subjects lend themselves more easily than others to frequent use of the direct ministerial channel. Environmental problems, with which Mr. Davis was often concerned, constitute an area where Canadian and American objectives are largely parallel and frequently require a common effort for resolution. Trade and energy issues, on the other hand, where Mr. Pepin was involved, frequently find the two countries in competition. The Committee was impressed by Mr. Davis' examples of effective use of the direct approach, for example, in persuading the Americans to modify their position on the 200 mile economic zone in respect to fisheries. But in negotiating agricultural trade problems, or auto pact safeguards questions, it would seem wiser to try to work out solutions first at lower levels before resorting to the ministerial dialogue.

While recognizing that there has been a great multiplicity of contacts at the ministerial level between Washington and Ottawa, the Committee regards their effectiveness as dependent on certain prerequisites. Much hinges on the personalities involved. A good personal liaison can only be established if the individuals on both sides welcome it. Some contacts will be useless or counter-productive when personalities clash and could better be left to official channels. Canadian ministers have, on occasion, found some U.S. Secretaries rigid. Certain meetings between opposites have been marked by friction and confrontation. Most contacts between ministerial

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[22]Pepin (11:7)

[23]Ibid (11:8)

[24]Ibid

counterparts, however, have been viewed by both sides as constructive and useful channels of communication.

Not only do personalities need to harmonize but, as Mr. Robert Bryce former Clerk of the Privy Council and Deputy Minister of Finance, related

> "the important thing is that one realizes that it is a very serious business . . . and ministers have to be properly briefed, not only about the subject but about the man they are meeting."[25]

A risk involved in meetings between ministerial counterparts is that commitments could be made which have not been thoroughly assessed beforehand. In such a case, difficulties of interpretation and implementation might ensue. Another danger of one-to-one ministerial contact is the possibility that issues handled in a private meeting between two Cabinet-level officers may be dealt with in too narrow a context, losing sight of broader national perspectives. A minister tends naturally to concentrate on and be well versed in his own subject. This could lead to the unintentional distortion of a complex issue. Mr. Schaetzel pointed out the United States Cabinet system does not lend itself to as co-ordinated an approach as the Canadian system since American Secretaries are generally less conscious of a collegial responsibility.

In summary, **the Committee considers that one-to-one** 'ad hoc' **ministerial contacts are important and useful mechanisms in the Canadian-American dialogue. They are not an easy panacea for difficult conflicts and they should not be used without thorough preparation. But there are undoubtedly occasions when an impasse occurring at a lower level can be broken or when a better understanding can be sought by the direct ministerial approach.**

b) A Co-ordinated Cabinet Approach

Friction in Canadian-American relations has been caused on occasion by Canadian domestic policies which have had an unanticipated impact on the United States or when policies affecting a United States interest have not been assessed in terms of the broader implications for Canadian-American relations. With interdependence between the two countries intensifying, this problem is likely to become more serious in the future.

The Committee heard testimony pointing out that ministerial-level Cabinet Committees have increasingly replaced interdepartmental official-level committees in the policy reconciliation process.[26] This places an added burden on busy ministers. To guard against the risk that Cabinet or its Committees might take decisions having an unintentional spill-over effect on the United States or that the broad ramifications of a policy affecting a United States interest have not been assessed in

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[25]Bryce, (2:37)

[26]Ibid (2:33)

terms of its effect on the overall relationship, the Committee recommends that Cabinet put in place some mechanism to ensure full policy coordination. For example, there may be instances where a Canadian objective could be achieved by either of two policies, but that one of the two would be less disturbing to the Americans. These kinds of options should be carefully examined.

In this connection, the Committee understands that there is already an obligation that all policy memoranda submitted for Cabinet consideration contain an assessment of the effect, if any, of the policy proposals on federal-provinvial relations. In view of the importance of the Canada-United States relationship, a relationship which is in most respects of more importance to Canada than all its other external relationships combined, **the Committee recommends that some similar mechanism be worked out to ensure that all Cabinet memoranda are assessed in the light of the effect, if any, of the proposals made in them on Canadian relations with the United States.**

c) Joint Ministerial Committees

During the early stages of the hearings, many members of the Committee were inclined to favour a revival of the Canada-United States Joint Ministerial Committee on Trade and Economic Affairs as a way to counteract the risk of "tunnel vision" or overspecialization by individual ministers. This Joint Committee which has met 13 times since it was formed in 1953 provided a forum for ministers on both sides concerned with trade, economic, financial and agricultural problems. As originally designed, the Joint Ministerial Committee was an informal mechanism for the exchange of views and for dealing with issues *before* they required decisions. It was intended neither for bargaining nor for joint decision-making. It provided a setting in which priorities could be established and the required degree of urgency assessed. Opposite numbers came to know each other—a fact which facilitated later telephone calls or personal encounters where necessary. New ministers found it particularly informative and useful. Perhaps most important, the meeting provided a broad approach, an antidote to the concentrated viewpoint of individual ministers who were obliged to take account of their colleagues' different perspectives. Mr. Schaetzel called it a "cross fertilization" of ideas between ministers.[27]

Unfortunately the early informality of the meetings gradually came to be replaced by a more structured approach. More and more time was spent on preparation of the joint communiqués which were in themselves reactions to the press demand for decisions. The encounter became increasingly a platform for predictable, set speeches from each side. Formal position papers were drawn up and exchanged. Each minister was accompanied by a battery of civil servants. The informal frank discussions of the original meetings were lost. At a time when the bilateral issues were becoming enormously more complex and more specialized, the

[27]Schaetzel (2:12)

meetings began to appear more futile with the discussions adding little to mutual understanding.

Another drawback has been that too much publicity has nullified the original exploratory and consultative purpose of this channel. Quick decisions and easy solutions were never intended to result from these meetings. One has only to imagine the national publicity and anticipation which would be aroused at the present time if a number of Cabinet officers concerned with energy matters, including financing, pipeline construction and environmental issues were to meet in such a format. National expectations would make such an exercise politically counter-productive for the Canadian ministers concerned.

The Committee views these developments with regret. The joint ministerial meetings, as Mr. Robert Schaetzel pointed out, not only broadened the perspective of both sides but, even more importantly for Canada, they

> "force[d] the American Government to think, at least once a year, about Canada on an orderly basis and within a set context. In fact, the in-house briefings in preparation for the meetings, with Cabinet officers brought together just for this purpose, might well be the most important asset of this process."[28]

The Committee considered the obligatory focus by senior American Cabinet officers to have been an invaluable feature of this institution. However, the task of bringing the eight or ten U.S. Secretaries and Canadian Cabinet Ministers together for two or three days once a year has become an almost impossible one in the 1970's. In recent years, the pace especially for the American side has intensified as busy Cabinet members are expected to participate in the ever-increasing number of international meetings around the globe. While the Canadian Government naturally concentrates a major portion of its time on its policy toward the United States, the American Administration is more preoccupied with responsibilities in other parts of the world. It can devote only a small percentage of its attention to Canadian affairs.

The Committee would like to see a revival of the original pattern of informal discussions which characterized the early meetings of the Joint Ministerial Committee. Unless this could be done, which seems doubtful, **the Committee has concluded with regret that this joint institution, in the structured form it has recently taken, serves no constructive purpose and may even be counter-productive in the conduct of relations between the two countries.** This does not mean, however, that the joint ministerial committee mechanism should be abolished. It still exists on paper and would, therefore, be available if it were decided by both sides to revive it in its original form or to call it for any special purpose.

The Committee considers that some of the advantages which resulted from the earlier more informal, ministerial meetings could be achieved by joint meetings at the under-secretary or deputy-secretary level, a recommendation which is advanced on page 26.

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[28]Schaetzel (2:6,7)

3. Official-level Contacts

It is at the official level that the majority of Canada's dealings with Washington are handled—and their range is enormous. The principal Canadian institutional mechanisms for such bilateral contact are the Department of External Affairs, the Canadian Embassy in Washington and the Canadian consulates scattered across the United States. In addition, most departments of the federal government also have direct working contacts with their opposite numbers in the United States government. Officers from nine departments are assigned to the Embassy in Washington.[29] Contact, negotiations and discussions between the officials of the two countries also frequently take place at multilateral conferences or at meetings of a vast number of international bodies of which both countries are members, including the United Nations, NATO, GATT, IMF, etc.

a) Contacts through External Affairs

Within the Department of External Affairs, the predominant position of the United States in Canada's domestic and foreign affairs and in world affairs requires that a great deal of departmental time and effort is devoted to Canada-United States relations either directly or indirectly. In addition to the sections which are particularly concerned such as the Bureau of Western Hemisphere Affairs, the Bureau of Economic and Scientific Affairs and the Bureau of Defence and Arms Control Affairs, scarcely any division of the department is uninvolved in the relationship in one way or another.

The Canadian Embassy in Washington is the focal point of the conduct of Canadian relations with the United States. Among the main functions of the embassy staff is the cultivation and maintenance of contact with American officials in various fields and the detailed reporting back to Ottawa on the situation in the United States with special attention to those developments of interest to Canada. The overall function of the embassy is to communicate and explain Canadian views to the United States authorities and interpret the American viewpoint to Ottawa. As Mr. Armstrong, a former senior official in the U.S. State Department put it,

> "One of the basic functions of diplomacy . . . is to make sure . . . that if there is a clear U.S. position on the subject, the Canadian government knows what it is, whether it likes it or not; and vice versa, to see to it that one's own government has a clear picture of what the other government's position is."[30]

In describing the embassy's activities for the Committee, the former Canadian Ambassador in Washington, Mr. Marcel Cadieux, commented that in the new

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[29]In addition to the Department of External Affairs, members of the following government departments are serving at the Embassy in Washington: the Department of Industry, Trade and Commerce (including the Canadian Government Office of Tourism), the Department of Energy, Mines and Resources, the Department of Agriculture, the Department of Defence, the Department of Labour, the Department of Supply and Services, the Department of National Revenue, and the Royal Canadian Mounted Police.

[30]Armstrong (2:24)

circumstances of "the third option", the challenge to maintain a harmonious relationship with the United States is now greater than before. He outlined the broadening activities of the embassy which include 17 different programmes ranging

> "from political, economic and defence relations, information and trade, industrial development to travel, marketing, police liaison, energy, supply and services, labour, provincial interests, the environment, and transport and communications."[31]

Particularly important aspects of the embassy's work are its contact with the U.S. Congress, its information work in the United States and its handling of the interests of the provinces. These topics are discussed below separately. With high speed communications, the practice has grown of sending experts from Canada to undertake negotiations. The embassy now conducts negotiations with the United States government less frequently than formerly. However, preparation for these negotiations and support for the Ottawa-based delegations has become, according to the Ambassador, one of the major tasks of the embassy.

Canada maintains consulates-general in New York, Boston, New Orleans, Los Angeles, San Francisco, Seattle, Chicago and Atlanta, and Consulates in Philadelphia, Buffalo, Dallas, Minneapolis, Detroit, Cleveland and San Juan, Puerto Rico. Their prime responsibilities are in the fields of trade promotion, information work, tourism and immigration. The consulates also try to keep informed and involved in contacts between provincial and state representatives. The Committee noted from the Ambassador's testimony however that further expansion of the consulates' role into the area of political reporting would have to await the provision of a confidential communications system between Ottawa and Washington and the fifteen consular posts. The Committee sees this as a legitimate goal which would allow increased political reporting as well as effective information work to be done at the consulates. The consulates located across the United States are both useful listening posts and valuable resources which are not being fully utilized.

These traditional diplomatic channels, the Department of External Affairs, the embassy and the consulates, have certain obvious advantages over direct contact between functional officials in other departments in Washington and Ottawa. Because of their formalized structure these mechanisms continue to function during periods of strained relations. It is generally agreed that they are, by length of experience, the most knowledgeable instruments for making bilateral contact and the most aware of the concerns and policies of the other country. They have a parallel and receptive counterpart in the U.S. State Department and its embassy and consulates in Canada. It was brought out in the hearings that there has always been a greater knowledge of and sympathy for Canada in the State Department than in other parts of the American bureaucracy. Mr. Armstrong considered there was a greater risk of bilateral difficulties when the State Department channel was bypassed by direct dealings between functional departments. It was also suggested

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[31]Cadieux (4:5,6)

that during the past several years there had been a movement in Washington to restore responsibility for relations with Canada to these normal institutionalized channels rather than relying so frequently on the network of established and informal personal contacts which could sometimes be friendly but might also be strained, as was the case five years ago in the financial field. These appear to be some valid reasons for using the established diplomatic links in official dealings.

b) Direct Contact Between Functional Departments

There is however a multitude of regular day-to-day contacts between officials in the functional departments in the two capitals dealing directly with each other in their subject areas. Such direct contacts are natural and inevitable in view of the range, complexity and technicality of issues between the two countries. Ottawa must be prepared to use the best expertise available and cannot hope to funnel all contacts with the United States through one departmental channel. Nor could one government department hope to provide the necessary expertise in all areas.

The numbers involved in such direct contacts are startlingly high. In 1968 a count was made of the number of Canadian federal ministers, heads of agencies and officials which went to the United States. Twenty-three government departments and ten agencies were involved. The figures for that year were: 3,034 visits to Washington, 9,866 visits to other points in the United States making a total of 12,900 such visits.[32]

c) Contacts at International Conferences

It is difficult to measure the extent of contact between Canadian and American officials at international meetings and multilateral conferences. However, the Committee noted that the Canadian Ambassador to the multilateral trade negotiations under the GATT, Mr. Rodney Grey, stressed in his testimony to the Committee the importance of these bilateral contacts. He described repeated instances of how, during the preparatory period and during negotiations, he was in contact with his American counterparts.

> "It would be quite foolish not to make it a regular part of the delegation's business to maintain contact with the United States delegation at every level, and all the more so because of the nature of the process. They arrive at Geneva at the technical level extraordinarily well prepared. . . . Because of the importance of our trade with the United States and the fact that they have developed their position on every issue, perhaps more than any other country has, because they do this at the legislative stage, it is vitally important that we talk to them.'[33]

This situation is multiplied at countless numbers of international meetings in a variety of fields. Because of geography and because of similar institutions in the two

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[32]Minutes of Proceedings and Evidence, House of Commons Standing Committee on External Affairs and National Defence, No. 3, 20 November 1969, Appendix "A", page 3:64.

[33]Grey (17:9)

countries, Canadian and American positions at such conferences are frequently in concert or complementary. It is usually useful for Canadian officials to be aware of the American viewpoints and, where the objectives are similar, to prepare and develop positions with this in mind in order to achieve the desired objectives.

d) A New Joint Official-Level Institution

One suggestion raised during the Committee hearings by a former U.S. Minister in Ottawa, Mr. Rufus Smith was for the formation of a Canada-U.S. committee of officials at the deputy minister/assistant secretary level. In discussing ministerial-level contacts the Committee has concluded that periodic meetings of groups of Canadian and American ministers had ceased to be productive as presently structured. But the original need served by these joint ministerial meetings remains and, in fact, is probably greater than ever.

In 1973, the then Under Secretary of State for External Affairs, Mr. E. A. Ritchie, accompanied by the deputy ministers of Finance, and of Industry, Trade and Commerce visited Washington for two days of informal discussions about issues in Canadian-American relations. The participants apparently felt it was a highly successful meeting. The objective of similar future meetings, as Mr. Rufus Smith pointed out, would be "simply to keep each other alert to the plans and trends in the other country."[34] Without a formal structure, without any planning mechanisms without powers of decision, the group—the composition of which should be small and flexible—could meet whenever either side considered it useful. Unlike the situation in the meetings of ministers, press interest and public expectations would be negligible, since it would be understood that the group would have no decision-making powers—both because this is a power which accrues to ministers and also because the meeting would refrain from anything resembling negotiations. The Committee recognizes that deputy-ministers, like ministers, are busy men, but nevertheless believes that the scheduling of such a meeting would be much easier than setting up the joint meetings at the ministerial level. The Committee puts forward this proposal convinced that steps must be taken on both sides to overcome the "tunnel vision" which on occasion prevails and to achieve the concentrated but broad focus on the relationship which is now lacking.

The Committee concludes that the government should explore the idea of 'ad hoc' joint meetings between Canadian deputy ministers and American deputy secretaries. These meetings should be unstructured, informal and called on an 'ad hoc' basis whenever either side considered it would be useful to get together to discuss bilateral issues. The composition of the meeting would include those deputy ministers and deputy secretaries concerned with the items under discussion. In the interests of policy co-ordination on the Canadian side however, the under-secretary of state for External Affairs should always be present.

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[34]R. Smith (5:7)

e) The Co-ordination Role of External Affairs

The functional departments in Ottawa and Washington, as mentioned earlier, have frequent direct contact at the official level. In fact many functional departments in Ottawa have international sections of their own, set up to deal with issues having international dimensions in their specialized field such as environment, fisheries, agriculture, etc.

However direct dealing between functional departments in the two capitals raises major problems for government organization. How can a single bureau or department keep track of all the bilateral dealings when they are dispersed among so many departments? How can the government ensure that departments are not working at cross purposes in respect of Canadian policy toward the United States? As Mr. Bryce, a witness with long experience in a functional department, explained:

> "In the case of Canada and the United States, one of the special difficulties is that there is an excellent telephone service between the two. One is tempted to deal with so much by telephone that does not produce a written record and it is often troublesome to send out notes of what you have said on the telephone so that even within departments it is difficult to make sure the senior officers of the departments are fully aware of what various assistants have been doing."[35]

In addition, officials, telex messages and mail fly back and forth accross the border between the two capitals with great frequency and rapidity.

The Committee agrees with several of its expert witnesses that there is no alternative to using the traditional channel at the official level, namely the Department of External Affairs, as the central policy co-ordinating mechanism. It is by far the best equipped to do the job, and for reasons cited previously, there are particular advantages. The Committee recognizes however that this puts a heavy burden on External Affairs. It must keep other interested and involved departments fully informed of all incoming information including the distribution of telegraphic messages from its posts. But to do the co-ordination job effectively it must also be knowledgeable in all relevant areas such as energy, environment, science, technology, etc. and fit these special considerations as far as possible, into the overall pattern of Canadian policy to the United States as decided by the government. External Affairs is such a large and complex department that it may even be difficult to get a reconciled viewpoint from competing functional divisions within it.

The Committee found that there does not appear to be any fixed pattern or method by which functional officials from other departments keep External Affairs informed, it being left to the judgment of senior officers in these functional departments. As Mr. Bryce put it,

> "The determination of these matters which should be taken up with External Affairs is a difficult question of judgment which is only learned in my opinion by a study of particular cases and the achievement of some feel for the situations . . . Which incidents must be taken up with External Affairs depend on the judgment as to how important they are in affecting our general relations with the United States or how far they might affect government

[35]Bryce (2:35)

policies, which may be prejudiced one way or another by the manner in which matters are settled within a particular field."[36]

This question of keeping External Affairs informed of direct bilateral dealings is closely related to the broader problem of policy co-ordination and the reconciliation of conflicting departmental viewpoints. While reconciliation of important policy differences is now effected at the Cabinet Committee level rather than by inter-departmental committees of officials, there still remains a substantial number of decisions made by various government departments in the course of their normal duties which will affect Canada's relations with the United States. Naturally viewpoints will differ between departments. The same "tunnel vision" or over-specialized perspective which can affect ministers' judgments can apply even more readily to individual departmental officials immersed in their special subject. The possibilities for confusion and conflict in respect to policy with the United States are enormous. **But internal co-ordination is essential if Canada is not to present a confused and discordant policy voice to the United States.**

The Interdepartmental Committee on External Affairs (ICER) was set up in 1970. Among other responsibilities, it involves those departments most actively engaged in Canada's foreign operations in the establishment of priorities and the allocation of resources in the programmes in various countries or areas. ICER has no formal role in the co-ordination of Canadian policy toward the United States. Its functioning, however, has resulted in a better awareness between departments of each others' interests and concerns in various areas, and has promoted 'ad hoc' interdepartmental co-ordination techniques. In particular the "country programme system" whereby representatives from different departments come together for weeks at a time to sort out priorities and pare down requests from the missions abroad has contributed to this process.

The usual steps toward achieving co-ordination and reconciliation of viewpoints between departments involve, to begin with, the widespread informal network of contacts between officials. Subsequently if an issue is not easily resolved it might be discussed at an 'ad hoc' interdepartmental meeting. Depending on the subject it could then be dealt with by a special standing interdepartmental committee such as the one for the GATT negotiations comprising senior deputy ministers and chaired by the under-secretary of state for External Affairs. A disputed issue will go higher and higher on the official ladder. If a matter cannot be reconciled or if a policy issue is involved it will reach the Cabinet Committee level where ministers, with officials present as advisers, will argue it out. But it is not an easy process, and Mr. Bryce stated that on occasion he had even found it easier to get a co-ordinated governmental decision through the embassy in Washington than from Ottawa departments since the embassy was a much smaller organization. As it included representatives

[36]Ibid (2:36)

from various departments, the consultation process was that much easier. He warned,

> "There is no way you can avoid doing a lot of hard work if you are going to co-ordinate."[37]

In the Committee's view this is one of the most difficult problems it examined in its study of the existing machinery. It agrees with Mr. Bryce that much hard work is involved. The Committee notes with approval that External Affairs itself is concerned with the problem and has recently established its own task force to enquire into External Affairs' role in interdepartmental co-ordination as it affects foreign affairs.

The problems of co-ordinating Canadian foreign policy vis-à-vis the United States present External Affairs with a particularly difficult task since so many intrinsically domestic policies now have some degree of impact on the United States. **The Committee stresses the need for effective policy co-ordination whether at the official or the Cabinet level. In the Committee's opinion there is a responsibility on the part of both the functional department and External Affairs.** Officials of the functional departments have a responsibility to alert External Affairs concerning any dispute or decision which may have an impact on the United States. They should keep a record of their direct dealings with American departments and use their judgment carefully and responsibly as to whether the matter under discussion warrants bringing it to the attention of External Affairs. For its part External Affairs should be aware in detail of the actual or potential interests of the functional departments and keep them informed of all ongoing developments relevant to these interests.

4. Provincial Contacts and Involvement

The constitutional responsibilities of the provinces encompass areas which touch on industrial strategy, resource policy, commercial policy, education and cultural fields, public finance, agricultural policy, labour relations, corporation laws and manpower concerns. As Mr. Ian Macdonald, a former Ontario deputy-minister in charge of intergovernmental affairs, put it, these are all matters of provincial concern but all have a deep imprint on Canada's foreign policy requirements. He continued.

> "It is not difficult to see why the provinces have more than a yearning but indeed a responsibility to make an effective contribution to that process"[38]

The problem for the federal government, which alone is empowered constitutionally to conduct relations with a foreign country, is how to take account of the views of the provinces to try to integrate them into its policies toward the United

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[37]Bryce (2:40)

[38]I. Macdonald, (3:8)

States. How also can it solve the problems of being unable, under the constitution, to legally bind the provinces into certain bilateral agreements which it may wish to conclude. Finally, it must try to provide adequate and effective institutional channels through which the provinces can make contact with the United States. There is a danger, if these problems are not resolved satisfactorily that the provinces will increasingly take matters into their own hands. A plurality of Canadian voices will be heard in Washington with a consequent weakening of Canada's influence and an undesirable effect on national unity.

The provinces are involved, directly or indirectly, in Canadian-American relations at three main levels:

a) directly, through province-state contacts;

b) via the federal governmental machinery, with Washington; and

c) within the framework of an international conference where Canadian-American issues are being worked out.

Both b) and c) involve some form of federal-provincial co-ordination or consultation.

a) Direct Province-State Contacts

Paralleling to some degree the intergovernmental channels of communication at the federal level, the province-state contacts fall into the following general categories:

i) mini-summit meetings between provincial premiers and state governors, usually between neighbouring provinces and states along the border. These meetings sometimes take the form of a regional meeting such as the Conference of New England Governors and Maritime Premiers;

ii) official-level contact at the province-state level. This usually involves informal administrative contacts between officials of various functional departments concerned with mutual problems such as highway construction, fire-fighting measures or international bridge maintenance;

iii) inter-legislative conferences between members of provincial and state legislatures such as those organized on a regional basis on the east coast.

There are also a number of provincial trade and investment offices in various American cities: the Alberta Government office in Los Angeles, the Nova Scotia Information Office in New York, the Government of Ontario offices in New York, Chicago, Los Angeles, Cleveland, Atlanta, Boston, Minneapolis, the Government of Quebec offices in New York, Boston, Chicago, Dallas, Lafayette and Los Angeles.

The Committee heard witnesses from several provinces and states on the subject of province-state dealings. It was interested to learn the extent and nature of these contacts. Testimony revealed not only frequent encounters at the premier-governor level but in several cases the development of close personal relationships. However, it was evident that by far the largest number of contacts have taken place at the

official level. The Committee was surprised to learn that there were 766 agreements, understandings or arrangements in effect between Canadian provinces and American states by 1974.[39] These arrangements for the most part have been developed by officials on both sides who were intent on working out 'ad hoc' common sense arrangements to solve day-to-day problems of neighbouring communities and regions. By their number and variety, however, they reflect an important element in Canada-United States intergovernmental relations. Basically administrative in nature, they are not generally regarded as binding under international law. The accompanying table gives a breakdown of the categories covered by this type of contact.[40]

Functional Categories	Agreement	Understanding	Arrangement	Totals by Functional Categories
Agriculture			27	27
Commerce & Industry	2	5	73	80
Educational & Cultural		10	34	44
Energy	1	12	23	36
Environmental Protection	1		64	65
Human Services		12	64	76
Military & Civil Defence	4	3	9	16
Natural Resources		24	125	149
Public Safety			36	36
Transportation	35	112	64	211
Unclassified	1	3	22	26
Totals by Types of Interaction	44	181	541	766

[39]Roger F. Swanson, "State-Province Interaction" A study of relations between U.S. States and Canadian Provinces, prepared for the U.S. Department of State, Bureau of Intelligence and Research, Washington, D.C. August 1974, p. 41.

[40]Ibid, page 41 Dr. Swanson defines an 'agreement' "as a jointly signed document setting forth regularized interactive procedures; an 'understanding' as correspondence, resolutions, communiqués, or memoranda, not jointly signed, setting forth regularized interactive procedures; and where there is no reported jointly signed document or correspondence, resolutions, communiqués or memoranda, the contact is described as an 'arrangement'. Of the total number of this type of contact over 70.6% are in the form of arrangements, 5.7% are agreements and 23.6% are understandings.

It is evident that the majority of these province-state contacts have been useful to both sides of the border and have generally had a positive effect on the overall conduct of Canada-United States relations. For instance the conference of Great Lakes premiers and governors in 1970 has been credited with providing an added impetus to the conclusion of the Great Lakes Water Quality Agreement between the two countries in 1972. The co-operation between Ontario and states bordering on the Great Lakes in regard to this agreement provided a sound basis for the development of the Transboundary Air Quality Control Understanding Affecting Ontario and Michigan. The Premier of New Brunswick, Mr. Hatfield, emphasized to the Committee the friendly and positive attitude which ensued from the discussions and exchanges of information at meetings between New Brunswick and Maine. These proved especially valuable when Canadian oil exports to Maine were cut off in 1973. As Premier Hatfield told the Committee:

> "Feelings between the two countries were badly strained and the feelings between Maine and New Brunswick were substantially strengthened because we both understood, having had these discussions, how difficult the problem was."[41]

Because of the interdependence of the economies of two border communities and their common front to the two federal governments, the oil supply to this area of Maine was restored.

The Committee is aware however that while good informal working relationships have evolved along the border in many areas, there are stresses and strains in some regions because of particular conditions. As Dr. G. Rutan, an academic witness from the State of Washington pointed out, this is particularly the case in the somewhat geographically closed-in area comprising the lower mainland of British Columbia, the southern tip of Vancouver Island and the most heavily populated area of the north-west of the State of Washington. Currently in this area there are a number of serious cross-border irritants including coastal tanker traffic, Canadian land purchases in the State of Washington, the supply and price of natural gas exports, the transborder television advertising dispute, and the Skagit River and Point Roberts controversies. In a situation where population pressures are beginning to be felt, Dr. Rutan said, it has become harder to adopt a friendly attitude and minor irritants tend to be exacerbated. Dr. Rutan also pointed out that an outspoken political style can have a negative effect on the overall tone of the relationship.

The Committee concludes that in dealing with local problems, a significant number of useful and successful working relationships have been established along the border. The province/state link can deal with these administrative border problems more effectively than any other body. The Committee agrees with Mr. Ian Macdonald who stated

> "... The development of those contacts, both formal and informal, helps greatly to relieve the atmosphere of tension which from time to time marks our border relationship with the United States."[42]

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[41]Hatfield (7:8)

[42]I. Macdonald (3:7)

Many of the problems in some areas such as the west coast, however are substantial and will have to be handled at the federal level. The Committee is of the opinion that if, at the province/state level, both sides could demonstrate good will and understanding in trying to clear away as many of the minor irritants as possible this would help to promote a positive attitude in which major problems can be settled.

In this respect, the Committee was impressed by the comment of Dr. Young, of the University of Victoria who pointed out that there was no office or single official in Victoria charged with the responsibility of overseeing British Columbia's relations with Washington State. Dr. Young stated:

> "One of the things that the Province of British Columbia should do is to assign some official in the premier's office or some other official in the government apparatus the task of simply monitoring and maintaining some idea of precisely what is going on . . ."[43]

The Committee trusts that great care will be exercised by provincial authorities in assessing whether the problem they are dealing with is likely to become an international rather than a local issue, in which case the federal government should always be involved.

Several specific ideas have emerged from the testimony of provincial experts and the Committee commends them to the provinces' attention in respect to their contacts with neighbouring states:

- **Where there are extensive relations with a neighbouring state as well as a number of difficult problem areas, the province should give consideration to assigning to a provincial government official the responsibility of overseeing the relationship and "of monitoring and maintaining some idea of what is going on".**

In order to improve co-ordination of Canadian policies toward the United States, the Committee suggests the following:

- **When a province contacts an American state on a matter other than of a local administrative nature or reaches agreements with an American state, the federal government should be kept informed. When such agreements are reached at regional conferences, they could be brought jointly to the attention of the two federal governments in order to illustrate regional interests and interrelationships more fully.**
- **The provinces should keep the Department of External Affairs or the embassy in Washington informed of any official visits to the United States of provincial ministers or of their senior officials. For instance, when provincial premiers make official visits to the governors of a neighbouring state, the nearest Canadian consul should be kept fully informed and if possible should be represented at the meeting. Similarly a representative of the embassy in**

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[43]Young (13:16) Since the adoption of the report, the newly-elected Premier of British Columbia has appointed an official in the premier's office to fulfil this function.

Washington or from External Affairs in Ottawa or from a consulate should be present at regional conferences between premiers and governors and between legislators.

The federal officials may often, through their wider contacts, provide useful assistance. Moreover, their presence will ensure that Ottawa is kept informed of the development of province-state relationships and that the impact of these regional developments on relations between the two countries is better understood.

b) Provincial Contacts with Washington

The established channel for provincial contacts with Washington is the Federal-Provincial Co-ordination Division of the Department of External Affairs. This section was set up in 1967 in response to the growing involvement of the provinces in Canadian-American relations. Its tasks were defined by External Affairs:

- "It attempts to keep in regular and close contact with provincial officials so as to remain aware of provincial aims and policies relating to international questions of interest to them . . .
- It places the Department's network of posts abroad and its extensive telecommunications facilities at the disposal of provincial officials.
- It arranges and coordinates the constantly increasing number of visits of provincial officials abroad and of foreign officials to the provinces.
- It facilitates contacts between the provinces and foreign governments . . .
- It seeks to ensure that provincial representatives are represented on Canadian delegations to international conferences dealing with matters of interest to the provinces. . . .
- It continues to develop procedures that will make it possible to distribute to the provinces on a regular basis miscellaneous information and documentation relating . . . to provincial areas of interest. The most recent specific example . . . is the 'information flow' system which has been set up from our Embassy in Washington in order to provide the provinces, in a systematic manner, with information of direct interest to them."[44]

The function of the Federal-Provincial Coordination Division is an important one but not an easy one to fulfil. Difficulties can arise when provincial ministers and civil servants go to the United States without notifying the Department of External Affairs or the Canadian consul in the state visited, or in not notifying them until the last moment of an impending visit. If the embassy is to fulfill its function of arranging productive visits to Washington by provincial figures, it needs adequate advance warning of the visit and its objectives. Further, as Mr. Cadieux pointed out, provincial co-operation in this regard is important if Canada is to avoid giving the

[44]From material supplied to the Committee July 23, 1975

impression in the United States that there are conflicts between different levels of government.

A specific programme under the Co-ordination Division relates to the embassy's programme of provincial interests and the recently established "information flow system". This arrangement is designed to meet some of the expressed needs of the provinces in respect to Canadian-American relations. A senior federal civil servant at the Canadian Embassy in Washington has been designated as "provincial interests officer". This officer is assigned the task of dealing with provincial representatives' visits to the United States, of trying to ensure that the embassy is the channel of communication or is fully involved in discussions between the provinces and the U.S. federal or state governments and of supervising the reporting on certain subjects to provincial governments. He also keeps in touch with the consulates which are instructed to alert the embassy when they receive requests from a province. Under the "information flow system" material which is thought to be helpful to an interested province is selected by the provincial interests officer in Washington and channelled to them via External Affairs. Under the arrangement made with Ontario, it was agreed that this material would relate to U.S. policies and developments concerning energy, the auto pact, trade policy and the Great Lakes. In addition, the embassy does some economic and political reporting to a few interested provinces on particular subjects and is prepared to brief provincial officers on special subjects when in Washington or in the provincial capitals.

The "information flow system" is the result of negotiations between Ontario and the federal government after the August 1971 Nixon economic measures. Ontario complained of a lack of information from Ottawa on issues of provincial concern and proposed the opening of its own provincial office in Washington. Alberta made a similar suggestion at that time. Negotiations ensued between Ottawa and Ontario and the idea was explored of having an Ontario government representative at the Canadian Embassy. When this idea presented too many problems it was agreed that the embassy itself would undertake to provide the information service to the province.

Mr. Ian Macdonald explained to the Committee why Ontario had considered some new machinery was urgently required. At the time of President Nixon's import surcharge, he said,

> "Ontario was not receiving from the federal government the information which it felt it needed to comment intelligently on U.S. proposals having important implications for the economic and social policies of the province . . . When each of those policies emanating from Washington has an indelible imprint on labour policy, on location of industry, on the export pattern and on the daily lives of everyone in the province, no provincial premier can afford to be uninformed, or indeed, can afford not to be intimately involved in any of these areas . . . "[45]

The witness explained that the information flow would reduce "the reactive nature of Canadian policies vis-à-vis the United States" and result in provincial governments

[45] I. Macdonald (3:7)

"being well informed so they are not taking public positions which tend to exacerbate tense relationships between Ottawa and Washington."[46] The information flow was designed

> "to serve as an advance warning device on developments that bear on provincial concern. The provincial ministers want to have some intimation of what is coming rather than to hear later what has taken place."[47]

It is evident that the procedure is still in the development stage. Although Mr. Cadieux stated it would be gradually extended to other provinces, only one other province, Alberta, is participating in this new facility at the present time. Further, testimony revealed some practical problems in the programme mainly stemming from the fact that the federally appointed staff members of the embassy responsible for provincial interests in Washington are not yet fully acquainted with the needs of the provinces. According to Mr. Macdonald this has led to some difficulties in the selection and transmittal of material. It is clear that the provinces will need to specify the type of information they would find useful.

On the whole, however, the Committee considers that the appointment of the provincial interests staff in the Canadian Embassy in Washington is a positive step forward in coping with the problem of provincial involvement in Canada's relations with the United States governments and in helping to decrease the pressure on certain provinces to have their own offices in the United States. The Committee hopes that other provinces with important relations with the United States will assess the procedure and, if it is judged useful, will participate in this programme.

In the interests of improving the functioning of this new mechanism, the Committee makes the following recommendations which arose from evidence heard:

- **Canadian Embassy officials responsible for provincial interests and the "information flow system" in Washington should spend some time in capitals of interested provinces in order to become better acquainted with the provinces' perspectives and needs vis-à-vis Washington.**
- **Because of the fact that economic questions are now the paramount concern of most provinces, more emphasis should be put on commercial and economic work and less on the traditional broader diplomatic reporting by Washington.**
- **In order that federal foreign service officers become more proficient in understanding provincial problems and perspectives in the foreign affairs field, some officers should be commissioned to spend a period of time in provincial capitals working where available in the intergovernmental affairs office.** They would then return to Ottawa to work in the federal-provincial co-ordinating unit of External Affairs. A federal programme called **Interchange Canada** is already in place under which such an exchange could be worked out.
- **In order that provincial officials can gain a better understanding of the federal services available from Washington, they should be able to spend a week or two**

[46]Ibid (3:8)
[47]Ibid (3:9)

at the Canadian embassy in Washington. Opportunities might also be provided by the Washington embassy for provincial cabinet members and senior provincial public servants to go to Washington for briefing or discussion sessions "to be exposed to the decision-makers in Washington."[48]

- **When a province has a particular interest in a cetain developing situation, a representative from that province should be assigned to the staff of the embassy in Washington on a temporary basis "as is the case with delegations to international conferences."**[49]

c) Provincial Input into the Formulation of Canadian Policies to the United States

Dissatisfaction has been frequently expressed by the provinces that they do not have adequate procedures for expressing their viewpoint when the federal government is formulating its policy vis-à-vis the United States. Even when they have been consulted, the provinces have been critical that their opinion is not sufficiently taken into account.

Nowhere is the federal-provincial consultative process more important than in the formulation of Canadian policy toward the United States. As pointed out earlier the constitutional responsibilities of the provinces overlap the federal government's jurisdiction in a wide range of areas including resources, investment, labour relations and trade. These matters while primarily domestic are, at the same time, inextricably linked to federal policies vis-à-vis the United States.

There are a variety of existing channels for the expression of provincial views: the annual premiers' conferences; the federal-provincial meetings of counterpart ministers; the provincial government submissions to the Senate and House of Commons Committees during the legislative process (for example the Foreign Investment Review Act and the Competition Act); the official-level consultations which are co-ordinated by the Privy Council and/or the Department of External Affairs and the informal "ad hoc" consultations between functional departments in Ottawa and their counterparts in the provinces. Additional devices by which the federal government has solicited provincial views in the formulation of foreign trade policy are the Canadian Trade and Tariffs Committee (CTTC) and the federal-provincial Deputy-Ministers' Committee on the Multilateral Trade Negotiations (MTN) which were set up to receive briefs and representations. As Mr. Grey explained to the Committee, there are a number of federal trade policy positions involved in the present GATT negotiations which could have a direct impact on provincial policies vis-à-vis the United States and other countries. The provinces quite naturally wish to have an input in the formulation of this Canadian position.

According to the testimony of the Hon. Jack Davis, federal-provincial consultation procedures concerning technical and environmental problems such as Great

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[48]Ibid (3:17)
[49]Cadieux (4:12)

Lakes quality seem to be working quite well. Mr. Davis explained to the Committee how he tried to overcome the federal-provincial 'gap' by federal-provincial ministerial meetings and by the ongoing Council of Resources and Environment Ministers, chaired in rotation by the provinces. He stated,

> "Policy was made in this way and misunderstandings of the type that occur all too frequently between the federal government and the provinces were cleared up or avoided altogether."[50]

In respect to the GATT negotiations, considerable effort has been made by the federal government to solicit provincial input. Through the two mechanisms mentioned above, the CTTC and the Deputy Ministers Committee on the MTN, and through direct contact, there have been numerous opportunities for the provinces to put forth their views, and to be briefed on the latest development at the GATT Conference. Provincial deputy ministers have met the CTTC; the Minister of Industry, Trade and Commerce has met with provincial ministers; federal officials have visited the provincial capitals to consult on aspects of commercial policy particularly with respect to the export of natural resources; and working papers and viewpoints have been exchanged. Finally, federal officials from the Tokyo Round negotiations return from time to time and try to report first-hand to provincial officials. Mr. Grey stated he thought there would have to be federal-provincial contact throughout the negotiations from the ministerial level down to the highly technical level. In this regard, the Committee noted Mr. Grey's comment that the provincial administrators will be facing a very heavy burden of work in "defining what their interests are and expressing those interests, as these very complex negotiations proceed."[51] They are faced with the need to coordinate the interests of their own functional departments in order to present a coordinated provincial or regional viewpoint to Ottawa.

Despite these and other positive steps in federal-provincial consultation in the formulation of foreign policy it is clear that there are still gaps in some areas, most specifically concerning energy policies and in regard to certain commercial policies. The recent British Columbia government's policy regarding gas exports and the Ontario government's policy regarding tax rebates on North American cars are cases in point. Given the current complexities of bilateral and multilateral problems there is still considerable room for improvement and refinement of procedures. Several provincial witnesses spoke of the need for more openness and less reluctance on the part of the federal government in divulging information. This would improve the provincial and federal governments' ability to act in concert. Mr. Ian Macdonald pointed out the enormous implications for Ontario of federal trade policy to the United States since 81 percent of Ontario's exports are to the United States. Ontario needed to be consulted and to have some intimation as to what was coming rather than hear later the explanation for what had taken place. He continued,

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[50]Davis (8:8)

[51]Grey (17:13, 15)

> "The process I think is simply too secret and too slow, and in this day and age the means employed too often do not justify the results. I think the successive lack of openness is an impediment to the fuller integration of the various viewpoints across the country."[52]

and later

> "The only way one is going to get a good national policy composed of federal and provincial inputs, is for an effective partnership process to exist from the beginning of these problems. There must be openness, candour and co-operation all down the line."[53]

He also emphasized the importance of early attention to common problem areas so that the federal and provincial governments could work on it together "with a far enough horizon to be effective at the time the so-called crisis occurs."[54] This did not happen in the energy field before 1973.

Another method of involving the provinces in policy formulation is to have provincial representatives present either as observers or participants in consultations when Canada and the United States negotiate on bilateral issues of special concern to a particular province. For example in 1974 British Columbia was represented at bilateral discussions on west coast tankers and Manitoba was on the Canadian delegation which went to Washington to discuss the Garrison Diversion scheme. However, such a solution might be inapplicable at a Canada-United States conference on energy in which every province would consider its interests were involved in one way or another. It would be difficult to decide which province or provinces should be represented and how the representatives who are chosen could speak for Canada rather than merely for their individual province. In such a case a national Canadian position must be worked out with the provinces beforehand.

In conclusion, the Committee considers that the federal government has prime responsibility in the development of mechanisms to involve and, if possible, integrate provincial viewpoints in Canadian policies toward the United States. While there has been substantial progress in this regard in recent years—to the point that Canada has become a federal state worthy of world attention—further refinement of the consultation and co-ordination processes is needed. There needs to be, as Mr. Macdonald has pointed out, a new awareness at the federal level that a national foreign policy properly includes both federal and provincial activities, not merely federal matters. There needs to be more openness by federal departments and agencies regarding the overall direction of Canadian policy toward the United States and a greater degree of solicitation by Ottawa of provincial views. **On the provincial side there is a responsibility to organize a central contact point or channel of communication with which the federal authority can deal on foreign affairs matters.** There has been frustration on the part of the federal government and officials in not knowing with whom they should deal in some provincial governments. In this connection the Committee makes the following suggestion:

- **The provinces should endeavour where possible to equip themselves with a counterpart agency parallel to the External Activities Branch in the Intergovern-**

[52]I. Macdonald (3:8)
[53]Ibid (3:23)
[54]Ibid

mental Affairs Division of the Department of Treasury, Economics and Intergovernmental Affairs of Ontario, in order to provide a focussed channel of communication with the federal government in the foreign affairs field.

5. Special Joint Mechanisms

From time to time persons concerned about Canadian-American relations have proposed that the pattern of successful resolutions of water boundary problems between the two countries by the International Joint Commission (IJC) should be applied to other bilateral problem areas—either by extension of the IJC's authority itself into other fields or by using the IJC as a model for the establishment of similar joint bodies. These proposals have led the Committee to examine the IJC not only from the point of view of assessing its own effective functioning, but also as a possible model mechanism for problem-solving in areas such as energy, trade, balance of payments, auto pact or even in the problems of defining the four salt water boundaries between Canada and the United States.

a) The International Joint Commission

Of all the existing permanent joint institutions linking the two countries, the IJC is the oldest, is the most independent, has the broadest mandate and the most notable record of achievement.[55] Created by the Boundary Waters Act of 1909,[56] the IJC consists of six members, three appointed from Canada and three from the United States. Its two national sections work together as one unit under the two national chairmen. It has four main areas of responsibility:

(i) a semi-judicial function of approving applications to alter the level of flows of boundary waters and of rivers that cross the boundary.

ii) the function of investigating and making recommendations to the two governments on specific boundary problems referred to it by either or both governments. In practice this has meant references which are formally agreed to by both governments.

iii) an arbitral function which has never been used.

iv) a continuous monitoring and surveillance of water levels, air quality, water quality and remedial programmes arising out of either specific applications, references or agreements, notably the Great Lakes Water Quality Agreement of 1972.

By far the largest number of cases now come before the Commission under references, under item (ii) above, the terms of which are usually carefully negotiated by the Canadian and American governments.

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[55]See testimony of Hon. Mitchell Sharp (1:34-39) Session 1974 for a list and description of other joint bodies to which should be added the Canada-U.S. Trade Statistics Committee.

[56]For various reasons, the actual establishment of the Commission was delayed until 1912.

Since its own staff in both countries is of very modest proportions, the IJC is normally authorized, upon taking up a referred problem, to call upon the best qualified technical experts and officials from the departments and agencies of the two federal governments or state/provincial governments or from outside of government. It organizes these experts into an international investigative board composed equally of Canadians and Americans acting as a unit under joint chairmen. After completing its investigations, which usually include public hearings, the board reports as one to the Commission. The Commission itself may make public the Board's report and hold further hearings before issuing its own report to the governments. Neither government is bound by the reports or recommendations of the Commission's investigations.

The Great Lakes Water Quality Agreement of 1972 added considerably to the responsibilities of the Commission. This agreement asked the IJC to monitor and keep under surveillance the programmes undertaken by the two countries which were aimed at achieving agreed water quality objectives in the Great Lakes. In this case the Commission was given specific authority to publicize its views and recommendations which enabled it to criticize either government for not living up to programme commitments. It is also free to recommend any changes in the agreement designed to protect the environment. In this sense it acts as an environmental ombudsman along the Great Lakes.

While the Commission has been criticized, perhaps unfairly, from time to time for its slowness in reporting or for the high cost of investigations which resulted in reports which found no easy answers,[57] the successes of the IJC over its more than 60 years history are indisputable. In 98 cases there have been only four instances where the Commissioners have divided or failed to reach an agreement.

From Canada's point of view, one of the most important features of this permanent joint machinery has been the parity of membership which has made equals of two very disparate nations. The Canadian IJC Chairman, Dr. Cohen, elaborated:

> "... Here was an asymmetrical relationship between a small Canada, still almost semi-colonial, and a great power, which together in 1909 were able to devise a system to create symmetry in the relationship of the two countries ... through the theory of equality on the Commission and equality on the boards in the field ... Size did not matter."[58]

A second most important element of this mechanism is the built-in predisposition to constructive problem-solving which has developed over the years. As Dr. Cohen explained, there has grown up a pool of hundreds of Canadian and American civil servants who have worked together on IJC cases. When they "wear the IJC hat" during investigations, they feel an obligation to the Commission.

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[57]The Great Lakes Water Levels Report was a case in point. Strongly criticized in the U.S. Congress, it had taken 9 years and a considerable cost to reach a conclusion which found that effective remedial action would be uneconomic.

[58]Cohen (6:6)

> "Even though they do not forget their nationality or their own departments, something happens when they sit 'collegially' as against the position if they were sitting 'adversarily' on behalf of their governments"[59].

An American Commissioner, Charles Ross, has called it an "esprit de corps" and commented that "to the greatest possible extent, national sovereignty gets lost in the shuffle."[60].

Fundamental to the success of the IJC is the common fact-finding process which de-politicizes each problem and unites both technical staffs in the search for the basics of the situation.

The Committee recognizes that the problems along the boundary which the IJC is being asked and will in the future be asked to solve are becoming increasingly complex. Dr. Cohen pointed out that

> "the boundary is no longer simply a boundary made up of boundary waters and trans-boundary waters. But now with air pollution and land uses that affect water pollution and air pollution, you have what I call an environmental/developmental complex—an interaction of air, land and water all along the common frontier."[61].

In the face of more complex interrelated issues, satisfactory solutions may be harder for the Commission to achieve. Present environmental concerns which could not have been foreseen by the treaty-makers of 1909, may force certain modifications in the IJC procedures. The governments might find useful a somewhat broadened authority for the IJC.

The Committee urges the Canadian government to examine the following recommendations with a view to their implementation jointly with the United States:

a) **The Committee recommends that the IJC should be given the authority on its own initiative to make preliminary examinations or assessments of potential pollution problems along the boundary, to point out potential sources of trouble and dispute and to suggest to the two governments that a reference should be made. This would, in effect, constitute a watching brief on environmental problems all along the border.** At present the Commission must await a reference from the governments before making an inquiry or investigation into such problems. As an example, the Committee is of the opinion that the current Garrison Diversion problem might have been headed off had the Commission had this watchdog capacity. As it is, this irritant was allowed to develop much too far before a reference was made to the IJC. The end result of the dispute will undoubtedly involve the governments in remedial actions and expense which could well have been avoided had the IJC had the competence to anticipate the problem.

The Committee hopes that such an extension of authority could be granted without opening up the Treaty. It understands that the two governments have

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[59]Ibid (6:7)
[60]Address to the American Society of International Law, Washington, April 1974.
[61]Cohen (6:13)

already given the Commission a similar watching brief in regard to air pollution all along the border. The same technique could presumably be used in regard to an extension into other pollution problems. If not, perhaps a standing reference could be given.

b) **The Committee recommends that the IJC should have extended power to publicize all its recommendations.** While the Commission now has power to publicize its views under the Great Lakes Water Quality Agreement, such authority is not automatically given in respect to other areas of its competence under the Boundary Waters Act. Commission recommendations can only be effective when they are adopted and carried out by the governments and agencies concerned. In the past there have been important instances where no government action was forthcoming. The most notorious case was surely the continued inaction of the two governments in the face of repeated IJC recommendations concerning pollution in the Great Lakes. Beginning in 1918, the IJC warned that the condition of the lakes was "generally chaotic, everywhere perilous and in some cases disgraceful."[62] Fifty-four years later, when Lake Erie was all but dead, the Great Lakes Water Quality Agreement was signed. **The IJC should be able to publicize the shortcomings of governments in all areas and to ask for explanations, after a suitable period has elapsed, as to why no action has been taken.** The Committee believes that the good judgment of the IJC Commissioners could be relied upon to ensure that the power to publicize would be used responsibly.

The Committee has taken note of Dr. Cohen's point that the IJC must strive to retain the confidence of the departments which supply its technical staffs and the governments which support it. Nevertheless the Committee believes that in fulfilling its Great Lakes pollution tasks, the Commission has gained credibility in publishing its forthright criticism of governments not living up to their clean-up programme commitment. If used responsibly, a similar extension of authority to criticize publicly deficiencies in other areas would be a rational outcome of the IJC work which would be widely accepted. Through the years the IJC has built up a considerable weight of its own. The public would not only accept but expect the Commission to follow up its recommendations in this way.

In view of these possible extensions of authority, the Committee hopes that the two governments will take care always to appoint a high calibre of Commissioners, that extended vacancies on the Commission will not be allowed to occur, and that a too-rapid turnover of Commissioners will not take place, making it difficult for any expertise to develop.

Finally the Committee recognizes that such extensions of the IJC powers to act as a pollution watchdog and to publicize its reports' recommendations would inevitably entail an increase in the Commission's very small staff and budget.

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[62]A.D.P. Heeney "Along the Common Frontier": *Behind the Headlines* C.I.I.A. 1967, p. 11.

However such an increase would be limited since the Commission's watchdog capacity resulting from the terms of certain specific applications and references already exists in a number of boundary areas across the country.

b) The IJC's Powers Extended to Other Areas

Various proposals have been made to extend the IJC's competency into other areas. In the 60's both the Merchant-Heeney Report and the report of a group of Republican Congressmen suggested that the Commission could be used to resolve other problems between the two nations. Professors Dworsky and Francis have outlined to the Committee their proposals for enlarging the Commission's task in the Great Lakes basin into an overall management and planning role bringing together in a co-ordinated way the efforts of the many agencies and organizations already responsible for different aspects. Other proposals which have been raised concerning extension of IJC powers have included the possibility of the IJC defining, through arbitration, the Canada-U.S. salt water boundaries; the authority to deal with pollution problems in salt water along the coasts; the granting of powers of enforcement to the IJC; the right to undertake new references on its own initiatives; or the possibility of a unilateral reference being given by one government to the Commission.

The Committee does not think that such extensions of the Commission's functions would necessarily be in the best interests of the Commission or of bilateral relations. It considers that priority should be given to extending the IJC'S responsibilities in the two ways recommended earlier in this report. If the IJC were to be given too much new responsibility, such as an arbitration power, in addition to its present semi-judicial, investigative and administrative functions, this could destroy its effectiveness in these important areas. Moreover, it could cause it to be bypassed by the United States. U.S. Commissioner Charles Ross has warned,

> "The danger has been and always will continue to be that even with equal representation, the country with the most clout will have a tendency to neglect such a joint institution because it has other ways of influencing the decision of any international problem or dispute. Canada has always, and understandably so, relied upon the IJC more than the United States."[63]

The Committee endorses the view expressed by Mr. Rufus Smith that the two governments should not overburden this useful mechanism and expect it to carry more of a load than it is designed to bear.

c) The IJC as a Model for Other Binational Commissions

Another proposal which has frequently been put forth is that Canada and the United States should set up other joint commissions modelled on the IJC in order to resolve bilateral differences in different fields. In other words, that permanent joint machinery should take the place of 'ad hoc' negotiations or consultations on

[63]Ross, op. cit.

particular subjects. Specifically a joint transportation commission, and a joint economic commission have been proposed as well as commissions in other fields such as trade, energy, balance of payments and investment.

After deliberation the Committee remains sceptical about these proposals. The IJC has certain special attributes which could not be easily reproduced in other settings. The IJC, the two other joint bilateral commissions concerned with fisheries[64] and the International Boundary Commission concerned with demarcation of the boundary line, all involve a common decision-making process arising from the equal responsibilities and common goals both countries share in regulation of specific and limited border subject matters. In the case of boundary waters and boundary markers matters, each side has an equal interest in establishing the factual data and in resolving difficulties. In the case of the joint fisheries commissions, the common objective is preservation and development of shared fisheries. Depleted fisheries require scientifically-based remedies and regulations.

It is true a joint committee exists in the defence field. In this case the sensitivity of the subject has caused the joint machinery to function in a quite different way from the IJC. The Permanent Joint Board of Defence (PJBD) was set up in 1940 with a structure paralleling that of the IJC and probably modelled on it. But it has developed quite different working practices. The PJBD does not work collegially, nor does it report jointly, differences which are natural enough when one considers the disparate defence structures and the unequal responsibilities of the two sides. Nonetheless the PJBD has served as a useful consultative and advisory body, helping to mesh complex military requirements with political, economic and other concerns of the two governments.

However, such conditions as are found in these areas are not paralleled in economic, financial or energy fields where there is rarely an identity of interest between the two countries. More frequently the interests are in some degree of conflict. Indeed, they usually involve important areas of national policy in which no government would wish to relinquish freedom of action. In the Committee's opinion, it is unrealistic to suppose that the United States would be willing to grant parity of membership and to sit jointly under a common commission 'umbrella' in order to reach a consensus in such sensitive areas. Such a process would be equally unacceptable in Canada.

While it is true that the governments have, in the past, created joint committees in some of these fields, such as the Joint Ministerial Committee on Trade and Economic Affairs or the Canada-U.S. Balance of Payments Committee of the 1960s, these committees have been channels of communication, consultation and co-ordination rather than of common investigation and even decision-making characteristic of the IJC. There has been no question of such committees sitting "collegially" to reach a consensus, nor does it seem possible that in their deliberations "national sovereign-

[64]The International Pacific Halibut Commission and the Pacific Salmon Commission.

ty [would be] lost in the shuffle." Furthermore as we have seen, even these committees have fallen into disuse because direct 'ad hoc' contact was found to be more suitable in present conditions.

While the Committee doubts that commissions on the IJC model can be set up in economic areas, it considers that certain elements of the IJC's work can provide a useful example for problem-solving in some fields. The aspect of the IJC model which is most easily applicable to some bilateral disputes involves the fact-finding procedures used by the IJC investigative boards. An illustration of a problem which the common fact-finding technique helped to solve is the bilateral trade statistics dispute of 1971.[65] There is no reason why this process could not be applied more often to resolving disputes of a technical nature where it is important to lay bare the factual data. In the field of energy, for example, are there not established facts regarding transportation costs, pipeline routes, or pipeline building techniques which are being needlessly duplicated on both sides of the border at great expense and which could be established by a single joint committee to the benefit of both sides?

Another proposal for a joint body which has come to the Committee's attention is in the field of agriculture, an area where American and Canadian interests have frequently been in conflict. World food scarcities may be changing this situation. A leading world food expert[66] has recently suggested that since the rest of the world is likely to look increasingly to North America for its food supplies, especially grain, Canada and the United States have a new responsibility. To cope with this world dependence, he suggested that Canada and the United States should form a joint body to formulate and adopt a responsible North American food policy using it to support a positive world food strategy. It is a difficult but challenging idea which the government might explore.

6. Legislative Channels

(a) The Embassy and Congress

Constitutionally, a distinctive feature of the U.S. system of government is the independent powers with which the Congress is vested. Recently this significant attribute has attained new importance. According to the testimony of Dr. David Abshire, a former associate undersecretary for congressional affairs in the Department of State, there has been in the past few years a "virtually unparalleled" shift of power from the Executive to the Congress. This shift, explained by Dr. Abshire, is closely related to the extraordinary economic powers exercised by Congress, as opposed to the politico-military powers of the President. The Executive has no way around the Congress on economic questions, which are exercised "particularly [by]

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[65]This subject is discussed more fully below on page 60.

[66]Lester R. Brown, *Financial Post*, October 11, 1975: "*Why North America must take the world food lead*"

the House Ways and Means Committee and . . . the Finance Committee".[67] Given the intense interdependence between Canada and the United States in the trade and economic field, there are significant implications for Canada in the new strength in Congress.

Dr. Abshire pointed out yet another important change—a new diffusion of power within Congress whereby the traditional Congressional leadership hierarchy has been challenged, and even deposed in some instances, and extensive new power assumed by the Democratic caucus. This decentralization of Congressional power and the loss in influence of the traditional Congressional leadership means that individual Congressional opinions now count for much more. Dr. Abshire commented:

> "To put it bluntly, many foreign officers of many governments and many missions in Washington have been very slow to perceive the implications of this shift in power in this foreign affairs field to the committees dealing with economics."[68]

Has Canada been slow to perceive it? Is the Canadian government's liaison work with Congress active enough? The Canadian Embassy's activities in this field were described by the Ambassador:

> "This is an important, expanding but delicate aspect of our work. There is, at minimum, a public relations and an information job to be done . . . We now have an officer who is assigned to this work on a full time basis. He develops links with the executive assistants and research specialists of the legislators, he keeps score of legislative contacts maintained by Embassy officers and constantly reminds them of this important aspect of their operations in their respective fields. The chief responsibility for expanding parliamentary and congressional liaison must rest, however, on all officers at all levels."[69]

Undoubtedly there is a certain limitation as to how far an Ambassador can go in 'lobbying' Congress. As he is formally accredited to the Administration, he should not actively and visibly lobby on Capitol Hill against a clear-cut policy of the Administration, particularly if he appears to relate to or negotiate with prominent Congressional opponents of the White House. However, when an American witness, Mr. Rufus Smith, was asked by the Committee how far the Canadian Ambassador could go in lobbying Congressmen, he replied,

> "He can go pretty far . . . As a practical matter in my opinion, the Canadian Embassy staff has a pretty free hand in cultivating people on the Hill and making sure the Canadian point of view is understood."[70]

For a variety of reasons Canada has been far more reticent and less active in this field than some other large countries which have less at stake in economic terms. In deciding on a cautious approach, the Canadian government may have been unduly influenced by its own parliamentary system and therefore may not have taken sufficient account of the critical fact that the division of powers in the United States produces an entirely different situation. Or perhaps there is a conviction that the

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[67]Abshire (15:17)
[68]Ibid.
[69]Cadieux (4:9)
[70]R. Smith (5:9)

U.S. Administration is in a better position than the embassy to counter Congressional action which might be detrimental to Canadian interests and therefore that it was wiser to work through the State Department. This presupposes that the State Department is always prepared to put forward Canada's position and is able to do so effectively.

In the Committee's opinion this is not the case at the present. As a result of Vietnam and Watergate, the U.S. Administration and particularly the State Department has much less influence than formerly as an interpreter of international developments as far as Congress is concerned. As a recent example, in the Turkish arms embargo vote in Congress it was the personal persuasion of anxious European and NATO figures which convinced some key Congressmen to shift their vote and may have saved Turkey from leaving NATO. Similarily Canada cannot expect that the Administration will always be able to convince Congress of the validity of Canadian arguments on a particular issue. **Canada should ensure that its case is put directly to Congress as well as to the Administration.**

Dr. Abshire pointed out that

> "the great problem we face in our Congress with respect to Canadian relations is the lack of awareness of the dimensions involved."[71]

Like the majority of Americans, most Congressional figures tend to take Canada for granted and have little realization of the extent and depth of the economic ties. How can Canada overcome this unawareness? Dr. Abshire stated that there were "many modes, many methods of having an important dialogue with members of Congress"[72] without coming between the Executive and Congress.

In contacts with Congress, Dr. Abshire stressed the importance of selectivity in view of the large numbers of senators and representatives in Congress. He cited the efforts of the Embassy of Japan, a country which has a smaller amount of trade with the United States than has Canada.

> "Over a period, the Japanese ... had about all the members of the Ways and Means Committee one way or another to the embassy and in a very helpful manner that created mutual understanding."[73]

Indeed, the primary focus for the embassy's activities should be the members of the key Committees, such as Ways and Means, or Finance which are constantly dealing with matters vital to Canada's trade, energy or environmental concerns. Dr. Abshire also suggested that as the first years in Congress are likely to be the formative ones, newly elected members should be sought out. He could have added that newly elected members are much more accessible. The burden for these efforts, which mainly involve the development of personal contacts, will inevitably fall on the Ambassador and senior officials concerned with trade and energy matters.[74]

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[71]Abshire (15:18)

[72]Ibid (15:19)

[73]Ibid (15:18)

[74]See also the discussion below on page 72, regarding the government's information programme and Congress.

The Committee recognizes that the task is a difficult and frustrating one for the embassy. Results will be hard to measure and slow in coming. There are many competing claims on the time of embassy staff. Novel techniques, foreign to the way of the diplomat, have to be developed to catch the interest of Congressmen. It may be necessary to have officers specializing in the field assigned to the embassy for extended postings, since so much depends on personal connections which cannot be routinely passed from one officer to his successor. The aim must be to develop the capacity to acquaint, in the time of need, some critical Congressmen with the Canadian viewpoint when our interests are involved. Canada must not depend on the State Department and other agencies of the Administration to act on its behalf.

The Committee urges the government to recognize that it is of crucial importance to Canada's relationship with the United States that the embassy take a more positive approach to Congress. Contact with Congress has been neglected too long. In the face of Congress' new expressions of power and its vigorously independent attitude in foreign and trade policy matters, it is essential to Canada's economic interest that the official Canadian viewpoint be heard by influential Congressional figures as well as by the Administration. Almost inadvertantly, Congressional unawareness or misunderstanding of Canada's position could cause severe economic or trade dislocations in this country. **The Committee considers that Congress should become an area of concentration for the Canadian efforts and that the government should provide the embassy as soon as possible with the instructions and the means for an expanded Congressional relations programme.**

(b) Parliament and Congress

The other important Canadian link with Congress is through its legislative counterpart, the Canadian Parliament. In addition to the encounters between Canadian and American legislators at inter-parliamentary meetings such as the NATO Assembly or the Inter-Parliamentary Union or the Parliamentary Assembly of the Council of Europe, there is a bilateral inter-parliamentary connection, the Canada-United States Inter-Parliamentary Group. Established in 1959 by joint legislative action, this institution was designed to bring delegations of both legislatures together regularly to discuss mutual problems. The Group could become an important instrument for increasing Congressional awareness of Canada. Politicians on both sides of the border relate particularly easily to each other and quickly appreciate each others' problems. Unfortunately for a variety of reasons the Group has not come close to achieving its potential to date.[75] In 1973, criticism and dissatisfaction over the lacklustre annual meeting were expressed by members of the returning Canadian delegation. They pressed for improvements. Based on a careful analysis of past deficiencies, two main proposals for reform were initiated. First, the Canadian side re-organized its internal affairs, with the aim of appointing capable,

[75]See M. J. Abrams: *The Canada-U.S. Interparliamentary Group* for further description of this institution and its functioning.

persuasive and well-informed Canadian delegations. Second, suggestions were put to the American side for joint decision relating to the format, timing, locale and agenda for the meetings designed to improve the quality and value of the discussions between delegations. The American side agreed and the Committee noted a marked improvement in the 1975 meeting in Quebec City for which the joint chairmen on both sides are to be congratulated.

The Committee urges that this effort to improve the functioning of a potentially important legislative link with Congress be further developed. There is no other inter-parliamentary link nearly as important to Canada. Canadian delegates should be of top quality, well prepared and selected because of their knowledge and experience concerning items on the agenda. While Canada has no input into the selection of members of the American delegation, this Committee shares Dr. Abshire's opinion that United States delegates to Group meetings should be drawn not only, as traditionally, from the foreign affairs committee but also from committees dealing with finance, trade and energy matters, that a "broader base of members of our Congress be involved".[76] It is to be hoped that other influential Americans embrace Dr. Abshire's view.

On two occasions in recent years, Canada has sought a special one-day meeting of this Group (as compared to the normal three or four-day meeting) to explain the Canadian position on controversial subjects. The first involved discussions of the potentially heavy impact of the August 1971 U.S. surcharge and the second resulted from Canadian alarm at the prospect of west coast oil spills following Congressional approval of the Alaska pipeline. These two meetings, focussed on specific issues, were useful in bringing new reciprocal understanding of differing viewpoints and concerns. The Committee considers that this technique constitutes a valuable additional mechanism for bilateral dialogue. Care should be taken however that this device is used only in exceptional cases where the issues involved are of national importance and recognized as such.

The Committee concludes that there is no other inter-parliamentary contact more important to Canada than that with the American Congress. The Committee therefore strongly urges the selection of delegates to the annual Canada-U.S. Inter-parliamentary Group meetings who are carefully chosen as to individual areas of expertise and adequately briefed in order to put Canada's case as effectively as possible to American legislators.

7. The Impact of Resolutions of Parliament

Quite apart from its legislative role, the Parliament of Canada can act in ways which may have an impact on Canadian relations with the United States.

From time to time—and particularly during periods of minority government—Parliament may pass resolutions critical of the actions of other governments. In

[76]Abshire (15:20)

recent years a number of these have been aimed at American activities or policies, notably a 1971 resolution condemning the Amchitka atomic underground test, a resolution in 1972 criticizing the Cherry Point oil spill and two in 1973, one objecting to the proposed flooding of the Skagit River Valley and the other deploring the U.S. bombing of North Vietnam. These resolutions were expressions of strongly held Canadian views. All were passed by unanimous consent—that is without debate or even a formal vote, with the government, for a variety of reasons, associated with the passage of each resolution.

The government's reasons for doing so have varied. Sometimes, as on the Amchitka underground tests, the government felt a resolution of Parliament would add weight to the protests which it had already lodged in formal diplomatic notes. During the minority government, its control of the House was weaker and the government was afraid of being shown up domestically. So, when public furore boiled up over American bombing of Hanoi and Haiphong and the New Democratic Party (NDP) came forward with a strong resolution condemning U.S. actions, the government concluded it did not wish to take the risk of blocking it and decided to preempt by having the Secretary of State for External Affairs submit a milder text. Sometimes—and the resolution on the Skagit River Valley is a good example—a resolution can be pushed through the House by a combination of skilful tactics and thorough preparation. In this instance the key factor was the choice of a day for submitting the resolution. A member of the Opposition put forward his resolution when the key minister—the Secretary of State for External Affairs—who would have objected and so blocked passage of the resolution was out of the country.

The impact of such resolutions on the United States varies enormously. The resolution on bombing in Vietnam, for example, offended the United States Administration mainly because it had been introduced by the Secretary of State for External Affairs. While the Canadian government's decision was understandable in domestic political terms, no account appears to have been taken of how the action would be interpreted in the United States. Few Americans understand how the Canadian system of government works and instinctively they equate the situation to that prevailing in the United States where Congress and the President have separate powers, and where the norm is for the executive to oppose Congressional resolutions critical of other countries. In the American view, the appropriate action for Mr. Sharp should have been to speak out against the strong NDP resolution and let the chips fall where they might.

Because both countries have similar economic and social systems and democratic forms of government, it is often assumed in the United States that the political systems of the two countries are similar. With the best intentions in the world, Americans think and speak of Canada as "a close neighbour", "a next-door cousin", a "sister nation", presuming a very close similarity of institutions, a parallel working of government. In reality, of course, the Canadian political system is quite different from the American; apparently similar institutions may operate differently. The

socially-felt kinship belies dissimilar political systems—not "sister states" but distinctive "nation states".

To remedy such misunderstandings it is important that the Canadian public information programme in the United States pay special attention to explaining the workings of the Canadian political process. The Committee recognizes, however, that this is a long-term project. In the meantime, while the Committee has no criticism of Parliament for exercising its constitutional prerogatives, it is important that the government, as distinct from Parliament, consider carefully the effect of its action in such circumstances.

Part III: TECHNIQUES FOR CONDUCTING RELATIONS

1. Advance Consultations

At a succession of top-level meetings in recent decades the leaders of the two nations have constantly renewed a pledge to avoid unnecessary acrimony and open disputes by early advance consultation on policies which will have an appreciable impact on the other country. Nevertheless, there have been notable lapses on both sides. It is evidently a formula which needs constant reiteration and fresh commitment. At a time when there are bound to be new areas of friction in the energy, investment, agricultural, even environmental fields, and when the domestic economic and social measures of one country are tending increasingly to impinge on the life of the other, there may be a new necessity for a commitment to advance consultation as an essential practice in order to preserve harmonious relations.

Basically a commitment to advance consultation means the undertaking by one government to communicate intended changes of policy which could adversely affect or embarrass the other. (This "ad hoc" consultation process is distinguishable from the ongoing consultative process which takes place almost continuously through mechanisms at the lower level). The objective of "ad hoc" advance consultations is, at the least, to seek understanding through explanation as to why a specific policy change is necessary. At best, it can achieve a reconciliation of divergent viewpoints; at worst, it protects a government from the embarrassment of being caught unawares. The commitment to consultation must be seen to be reciprocal for it to work. It must take place before a policy is announced publicly.

In a recent speech, the Secretary of State for External Affairs affirmed his understanding of this process.

> "It seems to me a sensible way of doing business is to notify the United States whenever possible of our intentions in advance of our taking major decisions on matters affecting United States interests and where appropriate to provide an opportunity for advance consultations."[77]

It sounds like an easy recipe to ensure harmonious relations. Yet the Committee recognizes that advance consultations with Washington are not always easy for the Canadian government when the policies involved arouse strong controversy within Canada quite apart from their impact on the United States. The federal-provincial relationship renders decision-making a delicate process in some areas and can delay and greatly complicate any consultations with Washington. Further, not all crises are predictable and there may be occasions when speed and secrecy are essential.

[77]MacEachen, Winnipeg, C.I.I.A., 23 Jan. 1975.

Mr. MacEachen implicitly acknowledged to the Committee yet another problem in ensuring consultations—that of the unawareness of other departments of the importance of such consultations,

> "I cannot guarantee there will not be slip-ups. I am telling you my point of view in terms of established policy in the department and the policy which must frequently be reasserted in Cabinet . . ."[78]

The Committee questions whether it is sufficient simply to reassert the policy of advance consultation in Cabinet, a step presumably taken only after some failure to do so has occurred. The Committee has already suggested that all Cabinet memoranda should require comment on whether the proposed action might affect Canadian relations with the United States. If this practice were to be adopted, it would be easy to add the requirement that in any instance where relations would be affected, the comment should include a description of the proposed arrangements for advance consultation.

The Government's recent handling of the export of natural gas provides a more constructive illustration of this technique at work than its earlier handling of beef imports or the oil export tax about which the former American Ambassador Mr. William Porter complained, "we have been confronted by decisions in food and energy without opportunity for effective consultation."[79] In the case of natural gas exports, Canada in 1975 gave the United States advance warning of the National Energy Board findings on natural gas so that Washington was not caught by surprise. The government and the Minister of Energy, Mines and Resources made it clear to the United States that Canada has no intention of making American consumers who were dependent on Canadian gas bear the brunt of the Canadian shortfalls. The burden would be shared, Ottawa said, and it undertook to work closely with United States energy officials before any reductions were made. The Department of State publicly welcomed the Canadian assurance of further consultations. This constituted a constructive approach to problem-solving between the two countries, one which minimized possible acrimony and recognized that Canada had a continuing obligation to take account of and to consult over the impact of Canadian decisions in this field on the United States. Less constructive was the brusque treatment accorded the United States Pacific Northwest in 1974 by the British Columbia government in curtailing gas exports on the premise that American buyers should absorb practically all of an unexpected local shortage.

Each case requiring consultations is likely to be unique and no fixed pattern can be adhered to. The preferable form of consultation should take place as soon as the government has decided on its objectives, its methods and time-table for achieving its objectives. It should then seek to explain the policy to the United States, listen to its reaction and, if appropriate, make any necessary adjustments. Such a procedure for

[78]MacEachen, (16:10)
[79]Porter, Winnipeg, C.I.I.A., 25 September, 1974

example was followed by the government in presenting its proposed foreign investment measures. Canada informed the United States well in advance and at the highest level. This approach has enough flexibility to allow the American point of view to be taken into consideration. Modifications can still be made to the Canadian policy if necessary. More importantly, it allows Canada to test the strength of the American reaction. If the United States indicated that the Canadian policy would result in counter-measures the Canadian government would have the opportunity to reconsider, and possibly to modify its decision or, if it committed itself anew, to prepare itself for the United States adverse reaction.

When, for one reason or another, advance consultations are impossible, the government should ensure that the United States receives "prior notification" of its policy measure. In this case the policy decision is considered rigid, the timing for the announcement is fixed. Nevertheless this process of notifying the United States before a public announcement may be of crucial importance to the relationship. No government likes to be taken by surprise by a totally unexpected announcement on an action which it considers detrimental to its national interest. The element of surprise invariably provokes irritation and may lead to hasty and ill-considered overreaction. The United States is in a position to lean heavily on Canada and reaction could be swift, harmful and difficult to reverse. If the United States government is given at least some warning it has time to cool off, to reflect on the longer-term common interests both countries share and to work out a reasoned reaction which may somewhat assuage its domestic critics who could be affected by the Canadian decision. The Committee considers that no benefit is derived from presenting the United States with a *fait accompli* which will affect it adversely.

The Canadian government deserves similar treatment and the Committee hopes that the commitment to advance consultations and prior notification techniques are resolute on the American side. However, the United States has world-wide preoccupations and responsibilities and Canada is not its only important relationship. As an American witness Mr. Rufus Smith admitted,

> "There is always the danger that the U.S. will take unilateral action that will harm Canadian interests. There is the danger of the U.S. unwittingly failing to take account of Canadian interests".[80]

In the Committee's opinion it is in Canada's interest to be most diligent in employing advance consultation and prior notification techniques with the United States so that a pattern is established and neither side will take each other by surprise. It must be emphasized however that advance consultations should in no way be construed as a seeking of approval of the U.S. Government before a policy course is determined in Canada.

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[80]R. Smith, (5:7)

2. Negotiating Techniques

a) 'Ad Hoc' Negotiating

While consultation techniques, as discussed in the previous section, are basically an exchange of views intended to increase mutual understanding of each other's positions, negotiation on the other hand is a process in which the negotiator is bargaining with a second party in order to reach a mutually satisfactory outcome. In negotiations the side which can offer the most inducements or alternatively impose most deprivations is generally in the stronger position. Successful negotiating is in some degree a function of strength. The constant preoccupation for Canada, as by far the weaker member in a asymmetrical relationship, has been how to bargain successfully with the United States. Negotiating techniques are important in maximizing available advantages or leverage.

Historically Canadian authorities have preferred to deal with the United States on an "issue-by-issue" basis rather than treating a number of issues linked together. In theory this has permitted issues to be dealt with on a one-by-one basis in a negotiating environment free from outside influences. Canada has been concerned that the United States would link issues, whereupon by its sheer weight and the fact that normally it would have relatively less at stake, it would seek to trade one issue off against another, leaving Canada with an outright loss in some areas. Furthermore any linking of issues was seen by Canadians as reducing the possibility of achieving a successful resolution.

This devotion to "issue-by-issue" bargaining may be changing. Certainly in 1971, balance of payments questions and trade matters of various sorts were closely linked. Such linkage may persist at least in the economic field. Currently, energy and resource questions appear to be discussed in conjunction with payments and auto pact questions. The Hon. Jean-Luc Pepin told the Committee that while he recognized some risk in the linking of issues, there were occasions when it might be useful for Canada to negotiate issues in a package. He observed

> "there might be some advantage to be gained in packaging, especially when the issues are not reconcilable one by one. . . . In the 1971 package . . . there were three main elements in the United States position. There were the Auto Pact, the Defence Sharing Agreement and the Tourist Allowance. But Canada also had irritants in its relations with the United States. They were their anti-dumping procedures, the American selling price, the uranium embargo, the copyright clause . . . Some of these irritants could have been packaged with some of theirs. For example you could have given in on the tourist allowance and they could have given in on the copyright."[81]

Canada, said Mr. Pepin, had been quite willing at that time to negotiate a 'package' but insisted it be a balanced package. Secretary Connally on the other hand insisted there should be unilateral Canadian concessions. A stalemate ensued and Canada's counter-package in this instance served as a sort of protection.

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[81]Pepin, (11:7)

It is clear that the earlier preference for "issue-by-issue" negotiating can no longer be rigidly adhered to. The bargaining method should be selected pragmatically Mr. Pepin suggested, as "a matter of circumstances, a matter of personalities and a matter of expediency."[82]

It is worth repeating that bilateral negotiations, as opposed to consultations, are usually best handled from the bottom up, beginning at the functional official level. If matters cannot be ironed out at progressively higher levels, there then may have to be recourse to the ministerial level and in rare cases even to the summit for the final determination.

Despite the disparity of size and power of the two countries Canada is not without some bargaining powers. As the government's foreign policy review pointed out in 1970 "in an era of heavy demand for energy or other resources, the cards are by no means stacked in one hand."[83] The fact that one-quarter of United States exports and a great deal of American employment in certain areas are dependent on the Canadian market must be a factor in American calculations. While the economic equation is of course heavily weighted in the U.S.'s favour, this interdependence has frequently provided Canada with useful bargaining counters. In the 1960's for instance, during the American payments restrictions, Canadian negotiators were twice successful with their argument in persuading the American authorities that it was in the U.S. interest to grant special exemptions for Canada. Yet another negotiating asset is the vast range of United States economic links, which obliges the Americans to look at any negotiation in terms of its world implications. A major example of this situation working to Canada's advantage occurred in December 1971 when, under the Smithsonian Agreement, Japan and several European states revalued their currencies upward in relation to the U.S. dollar, a move which also increased Canada's competitive position in their markets. Several American witnesses have also pointed, almost with envy, to the smaller and more cohesive Canadian government structure which allows Canadian officials and ministers to focus in a more concentrated way on problems with the United States. There can be better co-ordination on the Canadian side. Furthermore because of the overriding importance of the United States in Canada's eyes, a high quality negotiating team has normally been considered essential. The United States on the other hand has been busy with commitments all around the globe and cannot concentrate on Canada in the same way.

Sometimes, however, it has not been easy for Canada to find the right negotiating leverage. Such was the case initially when Canada sought to negotiate a new air agreement and found itself unable to budge the Americans. The changing pattern of longer haul flights permitted by jet aircraft had made the short-haul arrangements, agreed to immediately following World War II, detrimental to

[82]Ibid, (11:5)
[83]Foreign Policy for Canadians, p. 25

Canadian air interests. Canada sought the right to carry passengers far beyond the "gateway" deep into the United States, in order to gain some of the business of Canadians flying to California, Texas and Florida. As Mr. William Diebold pointed out to the Committee, in a successful negotiation of a bilateral issue there must be mutual advantage. In this case Canada was in effect asking the United States carriers to relinquish their near monopoly of long-haul flights from the Canadian border cities southward, while offering nothing in return. With the Canadian population strung out along the United States border, there was no *'quid pro quo'* to offer the American carriers. It was essential for Canada to find the negotiating tool which would bring the two sides into a give-and-take mutual gain situation. Various techniques were tried, but it was not until Canada threatened to cancel pre-clearance arrangements at the major Canadian airports that the United States saw the benefit of bringing the talks to a mutually satisfactory conclusion. As Mr. Dupuy the chief Canadian air negotiator told the Committee,

> "We established a close connection between a successful route agreement and the maintenance of pre-clearance in Canada and we had assessed the value of pre-clearance for the American carriers."[84]

Despite the overly-long period of negotiations, this case is illustrative of the realities of give-and-take of bargaining between the two countries.

Recent differences over the Canada-United States Automotive Products Agreement revealed other factors and techniques involved in bilateral negotiations. American demands for renegotiation of the auto pact or removal of the safeguard clauses were among the list of important "trade irritants" under discussion in the fall of 1971 and during 1972. In 1970 for the first time since the pact was signed Canada had a surplus in automotive trade with the United States. The United States considered the safeguard clauses were no longer necessary to guarantee Canadian production levels and urged their removal. Canada argued that the surplus could be a passing phenomenon. At one point in negotiations Canada offered to suspend two of the three safeguards during negotiating sessions and then withdrew the offer. This series of moves illustrated a curious and unexpected device which acts as a constraint on United States negotiators in bargaining with Canada. As Mr. Philip Tresize, an American negotiator of the auto pact, put it,

> "It always seemed to me that Canadian negotiators and Canadian ministers were subject to a great deal more pressure from their media and from the press, from the public generally on these issues, than were we and they were more constrained in what they could do. We had relatively more freedom since the issues were less important to our newspapers, to our media and we didn't have the constant pressure from behind us to get things done or not get things done."[85]

In a sense the American negotiators were at a disadvantage when the issue was one with such a high political profile in Canada. Canadian negotiators could argue convincingly that public opinion was demanding a certain course of action.

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[84]Dupuy, (3:26)

[85]Interview of Jean-Luc Pepin and Philip Tresize, Canada AM, CTV, 28 November, 1974

Although in 1970 and 1971 the auto pact raised problems for the United States, Canada is currently suffering a large auto trade deficit. Conditions on which the original agreement were based have changed considerably and inevitably produced friction on both sides. One technique which might have been adopted originally would have been to include an automatic review mechanism in the agreement itself. A built-in provision for such review after a certain number of years would appear to be a realistic device making unnecessary the unpleasant threats to abrogate the treaty such as have been voiced from time to time in the United States Congress.

In the case of many of the bilateral trade irritants which remained unresolved throughout 1972 and early 1973, officials found another mutually acceptable technique, that of transferring the unresolved issues from a bilateral negotiating framework to a multilateral forum, namely to the Geneva GATT conference. As American officials acknowledged at the time, a Canadian government would find it politically easier to defend 'liberalized world trade' than 'concessions' to the United States. From Canada's point of view, the rationale for going to a larger forum was succinctly put by Mr. Rodney Grey.

> "If you are dealing with a dispute and you are going to be in the ring with someone who is ten times bigger than you are, it is nice to have some friends and allies around. It is as simple as that.[86]

But, as Mr. Grey warned, Canada must use this technique cautiously, being careful not to generate ill will by giving the impression that it is ganging up with other countries against the United States.

Reviewing the problems of bilateral negotiating, the Committee concludes that Canada as the weaker member of the North American arrangement must be constantly on the alert to find and utilize the most effective bargaining approach with the United States. The traditional preference for 'issue-by-issue' bargaining can no longer be rigidly adhered to. Economic issues are inevitably becoming linked. Canada should continue to commit its highest quality negotiating teams to the bargaining process. It is important to recognize that successful negotiating means a *quid pro quo*—a mutually advantageous outcome. In tough bargaining situations the right tool or leverage must be sought to bring both sides into a constructive give-and-take mutual-gain situation. In certain long-term bilateral arrangements, a built-in provision for an automatic review might be included so neither side will consider itself unfairly dealt with if conditions change considerably. Occasionally, unresolved issues between Canada and the United States can be transferred to Canada's advantage from the bilateral negotiating table to a multilateral forum. Finally, both Canada and the United States must recognize the constraints as well as the advantages which their interdependence imposes on bilateral negotiations.

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[86]Grey, (17:5)

Because of the interdependence of the two nations, Canada has a bargaining advantage stronger than its relatively much smaller population would indicate. Because of its size and economic power the United States could, in any contest of retaliation, damage the Canadian economy much more than the reverse situation. Prime Minister Trudeau pointed out the unconscious constraint when he stated

> "The ability of Canada and the United States to wreak vast economic harm on each other is a major factor which ensures the two countries will remain good neighbours."[87]

Canada should not indulge in the popular game of some smaller nations of twisting the lion's tail or pulling the eagle's feathers. While it might be good sport, it could lead to serious repercussions detrimental to Canada's best interests.

b) Common Fact-finding

An important device which has been used successfully in mitigating or resolving bilateral disputes with the United States has been the technique of common fact-finding as a basis for negotiation. The work of the investigative boards of the International Joint Commission is an excellent example of over 60 years of common fact-finding related to disputes along the border, although it is of course only one aspect of the IJC's function.[88]

A recourse to the establishment of the facts related to Canada-United States trade balances in 1971 was responsible for cooling down one of the most abrasive issues between the two countries in recent years. Following the application of the Nixon economic measures of August 1971, the United States demanded unilateral trade concessions from Canada based on its figures of a large Canadian trade surplus for 1970. Bilateral negotiations on this issue were stalemated from the beginning as the Canadian trade figures showed a wide divergence from the American statistics. It was at this point, on ministerial initiative, that a new joint official-level institution the Canada-United States Trade Statistics Committee was formed, charged with establishing mutually agreed figures. Fortunately, statisticians on both sides already concerned about the huge discrepancy had done some preparatory thinking on methods which could be used. With the ministerial-level impetus, a process was undertaken which resulted, 16 months later, in the publication of the first reconciled figures on bilateral merchandise trade. The Canadian Chief Statistician at the time, Dr. Sylvia Ostry, emphasized to the Committee that these figures were reached in "a strict atmosphere of scientific objectivity." Over 10 million figures were involved, the officers of both countries were organized as a single research team and

> "the computer was totally apolitical . . . . The very procedure adopted was such that no one had an inkling of what was to happen until the very last moment."[89]

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[87]Vancouver Sun, 4 Nov. 1974
[88]See Chapter 5 Part II, for a fuller discussion of the work of the IJC
[89]Ostry, (4:7) session 1974.

The results as published showed the Canadian surplus in 1970 to have been considerably less than had been understood in Washington, although more than Ottawa had calculated. The continuation of the reconciliation procedure and its extension to the balance of payments area will ensure that in future when negotiators sit down across the table, there will be fewer disputes over the statistical facts.

The Committee considers that the recourse to common fact finding has made a notable contribution to the bilateral bargaining process. It is particularly suited to trade and financial statistics, but can perhaps be applied in other areas as well, as has already been suggested.[90]

c) Negotiating Publicly or Privately

One of the perennially-debated questions regarding the negotiation of disputes with the United States has been how much of it should be done in public. Bureaucrats have generally held the opinion that Canada does better with the United States when issues are handled through traditional diplomatic channels. Other observers, proponents of the 'squeaky wheel' tactic, consider that Canada should be wary of dealing with the United States in private because it may not be able to resist American pressures to conform with U.S. policies. For its own protection, spokesmen of this approach argue, Canada should always publicly confront the United States. The argument began when the Merchant-Heeney report of 1965 declared that

> "whenever possible, divergent views between the two governments should be expressed and if possible resolved in private, through diplomatic channels."[91]

Clearly there are times when any government must, for domestic or moral reasons, speak out and explain its position to its own public on a controversial issue. This action may of course have the additional value of gaining the attention of the American decision-makers. But such action cannot be used too often without affecting the spirit of subsequent bilateral negotiations. Canada would soon be accused of bargaining in bad faith. Professor Peyton Lyon pointed out that if such a course were to be followed frequently,

> "the effect wears off and we get the reputation of simply being a tiresome nag. It could even be that we would get the reputation for building up issues. —and the effectiveness of our representations in Washington would be greatly diminished.[92]

The opportunity for "going public" remains a threat, although one which can be used only once. The public confrontation technique also tends to make the give-and-take of bargaining more difficult with far less flexibility in positions. Professor Lyon

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[90]See page 46

[91]"Principles For Partnership" p. 32.

[92]Lyon, (9:8)

observed that it is often to Canada's advantage to negotiate discreetly. "It is a lot easier to make concessions in private, especially if you are the president of a big and proud country."[93]

The Committee noted the point made by the Hon. Jean-Luc Pepin that there was a growing difficulty in maintaining controversial, discreet negotiations because ministers were increasingly involved in high-profile disputes and "when politicians are involved it is almost impossible for them to operate in secret."[94]

The Committee finds little credence for the idea that the practice of quiet diplomacy has worked against Canada's best interests. As Mr. Dupuy made clear, the fact that the air transport negotiations were held in private did not mean there was not tough bargaining resulting in success on Canada's part. Discussing the process, in that context, he said

> "... while we speak of quiet diplomacy, these negotiations were hard. We had some very difficult moments. I once went to Washington prepared to stay for fifteen days with a delegation of eighteen people ... we had to return to Ottawa after twenty-four hours ... This was a chess game but the reality of our economic relationship with the United States is tough, based on hard economic facts."[95]

It is the Committee's opinion that while occasionally it might prove beneficial to publicize a controversy, better results are more likely to be achieved in the normal give-and-take of private bilateral bargaining sessions. Public confrontation as a Canadian negotiating tool with the Americans would very quickly become counter-productive.

The Committee considers that to guard against public suspicion, all relevant details of formal agreements reached with the United States should be made public as soon as possible so as to permit public examination and parliamentary debate if necessary.

3. Arbitration or Judicial Settlement

During the hearings, an American witness, Mr. Rufus Smith, raised the question of the use of arbitration as another technique to settle difficult disputes between the two countries. He suggested that there were some problems which were becoming urgent, where discussions and negotiations had not resolved anything and where both sides had taken rigid positions. He referred specifically to the problem of delineation of the sea boundaries between the two countries off the east and west coasts. He observed,

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[93]Ibid
[94]Pepin, (11:8)
[95]Dupuy, (3:30, 31)

> "... perhaps the time has come, where problems of this sort are concerned, for the two countries to resort to arbitration ... It seems to me that it is a sensible and civilized way to solve a problem which can be very difficult politically for both countries."[96]

It may not be common knowledge that not one of the four salt water projections of the Canada-United States boundaries, on the Atlantic, Pacific and Arctic coasts, has been resolved. Potential disputes over these demarcations could involve the fisheries and oil resources of vast continental shelf areas. One has only to think of how difficult the division of the North Sea area would have been, had it not been settled before oil was discovered there, to appreciate the dimensions of the Canadian-American problem.

In 1973 the United States government suggested to Canada in diplomatic correspondence that the two countries should conclude a treaty, submitting to arbitration two small territorial disputes. These involved, on the east coast, Machias Seal Island and North Rock Island in the Gulf of Maine and, on the west coast, the A-B line connecting Cape Muzon, Alaska with the entrance to the Portland Channel separating Alaska from British Columbia. The urgency arises particularly in connection with the east coast where both countries have a keen interest in the resources of the continental shelf as well as in adjacent fishing areas. Canada has been unwilling to agree to the proposal for arbitration, but very little is known in the public realm about the dispute except that the United States has implicitly claimed ownership of Machias Seal Island, while Canada has for many years maintained a manned lighthouse on the island and claims both ownership and sovereignty.

The Committee recognizes that there is a feeling of mistrust in Canada for the arbitration process, probably based on the fact that some early awards and most notably the Alaskan Boundary Award of 1903 were very favourable to the United States at Canada's expense. Perhaps because of this there have been only three disputes between the two countries referred to an international arbitration tribunal since 1930, namely, the "I'm Alone" case of 1932, the Trail Smelter case of 1935, and the Gut Dam arbitration of the 1960's. Yet an expert in international law from Dalhousie University, Dr. R. St. J. Macdonald, told the Committee that

> "from a Canadian point of view, the arbitration experience has been a positive one. A number of politically irksome and technically difficult problems have been settled in an orderly and generally satisfactory manner. The method of arbitration has well served the cause of good relations between Canada and the United States."[97]

In respect of the particular case of Machias Seal Island, the Committee found it virtually impossible, due to a lack of public information regarding the details of the Canadian and American claims, to judge whether arbitration is called for or not. When the facts are made public there should be a full discussion of it by Canadian lawyers, by the Canadian Bar Association and by legal academics. Neither the

[96]R. Smith (5:7)
[97]R. St. J. Macdonald, (12:5)

Committee nor the witness were able to understand the necessity for secrecy in this case. There is no obvious reason why the public should not know the facts of the dispute. If the negotiating stage in the Machias Seal Island case is indeed exhausted, and the Committee cannot secure the facts to make this judgment, **the government should consider Dr. Macdonald's suggestion that an independent rapporteur should be appointed to clarify the facts, list the claims and report back to the two parties. It may be that this particular case is a case for arbitration. Inevitably these problems must be faced, they are not going to go away. The Committee considers that if these issues are left unresolved much longer they could seriously damage the future of Canadian-American relations.**

While there is an understandable reluctance by government to agree to an arbitration or judicial settlement procedure which has the effect of limiting national options and which might require the surrender or at least the delegation of sovereignty to an impartial body, there are situations in which this may be the only practicable solution. In some disputes, local feelings could run so high that any government might find bilateral negotiating, with its inevitable concessions, a political impossibility. A ruling by an independent tribunal might be a far more acceptable solution than bilateral bargaining to those locally involved. However, the Committee can understand why a government would not wish to commit itself to a comprehensive arbitration process intended to settle every outstanding problem. To keep its options open, the Canadian Government would undoubtedly prefer to make individual judgments as to which disputes should be referred to arbitration.

The Committee concludes that the government should look very seriously at the idea of using the arbitration process or the judicial settlement technique in certain disputes. When all the facts in a given dispute are known and when no further meaningful negotiation seems possible, it is the Committee's opinion that the wisest course might be to go to arbitration or judicial settlement.

Possible Arbitral Machinery

The Committee heard testimony concerning the various mechanisms which could be used in settling disputes by an impartial tribunal. It considers they are worth setting out in the event the arbitral process is used.

Three possibilities emerged:

a) an 'ad hoc' arbitral tribunal which could consist of several, perhaps three, individuals or a single person, chosen jointly by the two governments;

b) the regional chamber of the International Court of Justice—a system as yet unused, but for which there is now provision. It could sit in North America and the parties involved would be consulted on its composition; or

c) the International Joint Commission as an arbitral board under Article X. As this process would require a two-thirds vote of the United States Senate, it may be only a remote possibility.

It was clear from Dr. Macdonald's testimony that there were advantages and disadvantages to both a) and b). However the Committee noted the strong case that Dr. Macdonald made for using the regional chambers of the International Court of Justice in certain cases. He explained,

> "It is important, I believe, that we in Canada understand fully that it is possible now to use regional chambers of the Court.... The power to form chambers consisting of three or more judges for dealing with particular categories of cases is expressly recognized by the statute of the court. The parties are free to recognize that their dispute be heard and determined by a chamber rather than by the full court itself, but any judgment given by a chamber is considered to be a judgment of the court. The chamber system has never been used... Under the new rules adopted in 1972, the parties will be consulted about the composition of an *ad hoc* chamber to deal with a particular dispute. It would be possible therefore, for the parties to a regional chamber—for example Canada and the United States—to choose judges from outside the region, if that was thought to be desirable. In short the system has become sufficiently flexible to permit of an *ad hoc* chamber of the court in theory but an arbitral tribunal in practice."[98]

The Committee agrees that Canada should support the International Court of Justice and "the best way to support the court is to use it."[99] **The Committee concludes that if the government turns to arbitration in the near future, it should give serious consideration to the regional chamber of the International Court of Justice.**

4. Bridging the Information Gap

(a) The Need to Explain

> "Good Canadian-American relations depend ultimately on American knowledge and understanding of Canada"[100]

Witnesses before the Committee agreed that the widespread lack of understanding and information about Canada in the United States has aggravated problems between the two countries. It is only when Canadian actions appear to be "anti-American" that the generality of United States citizens becomes aware that Canada is a separate nation with independent and sometimes contrary views. When this happened, the American reaction has often been one of surprise, resentment and bewilderment. The United States for example found it difficult to understand why Canada allowed American deserters and draft dodgers into this country. Such things as the oil export tax, higher gas prices, the cable advertisement deletion policy, the *Time* and *Reader's Digest* case, and the foreign investment legislation have caused

[98]R. St. J. Macdonald, (12:7)
[99]Ibid, (12:9)
[100]Dr. Claude Bissell as quoted by R. O'Hagan (14:8)

shock and resentment among many Americans, adverse comment in the United States media and strong protests in Congress.

In many cases this has been compounded by an abundance of misinformation and misunderstanding. Americans often assume that they know Canada well, thinking that after all it is not really different from their own country. Even among influential opinion-makers there remains a resistance to the idea that Canadian interests may not always match those of the United States.

As an increasing number of Canadian policies are now having an impact on the United States, a new challenge is facing the Canadian government. Previously one of the important functions of the Department of External Affairs and the Canadian Embassy in the United States was to try to counter American measures which could have a negative impact on Canada. Now a major task is to try to explain and gain understanding for Canadian policies or actions which might be regarded as inimical to United States interests. The challenge, in the words of the Secretary of State for External Affairs, is one of public diplomacy—to explain to the American people "what Canada is, where it is going and why".[101] It is, the Committee realizes, an enormous task.

How should the government respond? How best can it present Canada's policies to the American people? To whom should its programmes be directed? the media? the Administration's policy-makers? Congress? businessmen? the intellectual leaders? students as future leaders? the general public? How should the resources be allocated? Should there be more or less emphasis on speeches by Embassy and consular staff? on publications? TV? radio? academic relations? visits and cultural support? Should the work be concentrated in Washington, New York and a few large centres or should it be activated across the United States?

(b) The Initial Response

The Committee has heard evidence related to the various aspects of the Canadian information programme in the United States. With the "New Look" programme launched in 1973, some progress has been made. The government has identified the problem and put the component parts into operation. For instance, a new emphasis placed on the information work of the consulates allows the hiring of talented and experienced local personnel to help get factual information to the local and regional media and opinion-makers. The considerable increase in time spent by the Ambassador in travelling across the United States meeting newspaper editors, giving speeches, press conferences and radio and television interviews has meant a reaching of previously untouched audiences. The stepped-up Canadian studies programme in conjunction with U.S. universities and colleges will help build a better basis for future American understanding and awareness of Canada. The intensified

[101] MacEachen, (16:8)

publications programme has won many plaudits from informed Americans especially the quality magazine *Canada To-day/d'aujourd'hui* which is being mailed without charge to 44,000 selected opinion-makers and distributed through the 15 consular posts within the United States. There is also the cultivation of the world's busiest press corps, an uphill job in competition not only with American news but the intensive efforts of other nations of the world many of which spend large amounts of money for the specialized services of professional U.S. public relations and "lobby" specialists. Through its visitors programme, Canada now brings influential media executives, selected academics, White House fellows, federal executives, Congressional fellows and some students to Canada and arranges programmes to match their interests. The Department of External Affairs supports an impressive privately organized programme to bring influential members of Congress to Canada to examine Canadian experience in matters of interest to them as American legislators.

In total, in 1974 the federal government spent $2.3 million on information work, cultural relations and academic relations programmes in the United States, an increase of $400,000 from the previous year. Altogether, the stepped-up programme and the increased budget represent a start, but it is still only a start. *Much* more needs to be done to fill this urgent need. As Mr. R. O'Hagan, the senior official in charge of information at the Canadian Embassy stated;

> "We must constantly search out opportunities to sell ourselves and to tell our story frankly and persuasively. In doing so we must press against the boundaries of convention and creativity."[102]

(c) Academic Relations

In the field of academic relations, there is still only a handful out of approximately 1500 American colleges and universities which offer substantial Canadian studies.[103] The major benefits of the academic relations programme are no doubt in the future when to-day's students become tomorrow's leaders. But they are also in the present. As the former Ambassador Mr. Cadieux explained to the Committee, he found that in visiting American regions and cities which had a Canadian academic

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[102]O'Hagan, (14:10)

[103]American Universities and Colleges with Canadian studies programmes are: University of Maine, courses offered both at the Orono campus and the Fort Kent campus, Maine; University of Vermont, Burlington, Vermont; North Adams State College and Bridgewater State College of the Massachusetts State College system; St. Lawrence University, Canton, New York; Plattsburg campus of the New York State University system (There are quite a few courses offered at other campuses under the N.Y. State university system); University of Rochester, Rochester, New York; Syracuse University, Syracuse, New York; Centre for Canadian Studies, School of Advanced International Studies, Johns Hopkins University, Washington, D.C.; Duke University, Durham, North Carolina; Western Washington State College, Cheney, Washington; Northwestern University, Evanston, Illinois; Michigan State University, Lansing, Michigan; Yale, New Haven, Connecticut; New Jersey State College, New Jersey. These are universities or colleges which offer a structured programme of Canadian studies usually across several disciplines. There are numerous others with several courses or partial courses or a faculty member involved in Canadian studies which are not judged significant enough for this list. Although Harvard has a chair for Canadian studies it has been vacant for a number of years and there is no Canadian studies programme offered.

study programme, the atmosphere was noticeably more receptive and interested and contacts were easier between the consulate, the local media and the academic world.[104]

The Committee was told that other countries put considerably more emphasis on this type of information activity. Canada's budget for academic relations is much too small. The main emphasis is on the stimulation of interest at colleges and institutions through the inauguration of Canadian studies programmes but the only incentives available are offers of some books, films, and speakers and, on occasion, the organization of seminars and conferences. In 1975, in addition, $50,000 was granted to the Centre of Canadian Studies at the School of Advanced International Studies at Johns Hopkins University in Washington, D.C. Compare this with Japan which, as the Ambassador pointed out, has recently endowed a $10 million foundation to assist academic programmes and faculty in establishing and maintaining Japanese study programmes in U.S. universities.[105] Canada has no less at stake than Japan in the United States. **The Committee urges that Canada expand dramatically its academic relations programme in the United States.**

(d) The Consulates' Role In Information Activities

The Canadian consulates throughout the United States can play an important role in information activities in the United States. Outside of Washington and New York, local newspapers are much more likely to cover Canadian-oriented events and speeches if they have local sources of information. Consular officers have good opportunities to talk to local business, and professional groups of all sorts. It is important to get accurate information quickly to the media to explain the background of Canadian policy and action.

The Committee recommends that information activities by the consulates should be increasingly emphasized and expanded. Yet for the consuls across the United States this poses problems. Removed from the sources of policy-making, they are dependent on Washington and Ottawa for information on up-to-date policy developments, interpretation and material. Mr. Ray Anderson, the Canadian Consul General in Seattle told the Committee that when Canada takes an action which is unpopular or not understood in his area,

> "our problem has become one of getting this information to them as quickly as possible so that when the headlines hit, then over you get to the media, to the people who are making the pronouncements, the people they listen to, so that they have this background information . . . you have to give them the facts so they will understand."[106]

As referred to earlier in this report, the consulates are severely hampered in getting up-to-date policy information by a lack of a confidential communications link with

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[104]Cadieux, (4:22)
[105]Cadieux (4:7)
[106]Anderson, (14:12)

the Embassy and Ottawa.[107] In the Committee's opinion this is an area of critical importance to the effectiveness of the Canadian explanation and persuasion role in the United States. It recognizes that the expense of installation of such a system would be heavy particularly since new office space and equipment and additional man-hours would be involved. The Committee believes, however, that the government should carefully consider undertaking some measures to increase the capacity of at least some consulates in this field.

One way to encourage consulates in their public speaking activities is to support them with a steady supply of source material and themes for speeches. While some progress has been made in the preparation of "speakers' notes", the newly enlarged consulate information staffs could, with the consul, make use of more up-to-date material of this sort. To this end, the Ottawa information staff or perhaps the embassy in Washington should be equipped with creative writers and policy analysts to keep abreast of relevant developments and prepare and distribute a flow of basic material to the consulates where it can be given local flavour and used as required.

(e) Help from Ministers, Parliamentarians and the Private Sector

Another technique for pursuing the goal of explaining Canadian viewpoints or new policy initiatives to Americans is increased speech-making in the United States by informed Canadians including Cabinet ministers. After the initial shock of the Nixon measures of August 1971 Canadian Cabinet ministers made a concerted effort to explain to selected American audiences why Canada felt it had been unjustly included and why it should not be forced to revalue its floating dollar or give unilateral trade concessions. Recently there has been a more deliberate programme by ministers speaking to businessmen, editors, bankers etc. to explain the 'third option' policy as well as recent energy and investment policies. The Hon. Jean-Luc Pepin told the Committee that he had found among United States business groups a disturbing interpretation of certain Canadian policies. He considered that, "we have obviously a lot of straightforward, friendly, calm explanations to give."[108]

Although ministerial visits usually do not make headlines in the United States they are another direct method of putting across the Canadian viewpoint to American opinion-makers and leaders and of getting some feed-back from them as to their reactions or apprehensions about Canada. A Cabinet minister can usually be assured of a receptive audience; for example, the Minister of Finance could talk to business, the Minister of Energy to oilmen, the Minister of Agriculture to farmers, the Minister of Labour to a union convention.

The Committee heard testimony from the Secretary of State for External Affairs recounting his 1975 ministerial visits to New York and Boston to explain the

[107]See page 24.
[108]Pepin (11:14)

"third option" policy to key audiences. Mr. MacEachen stated he felt confident his visits had

> "softened some of the shadows which may have arisen due to misunderstanding over certain government policies . . . These presentations bring an awareness of Canada to every region in the United States. These visits direct the increasing attention of important Americans to Canadian affairs by bringing spokesmen for our policies to their door."[109]

While this technique can assist in explaining Canada to Americans it could be dangerous if ministers use it for internal political purposes, that is, to gain domestic political support through extensive newspaper coverage by being abusive or highly critical of American positions. It could also prove useless or counter-productive if such a platform is used gratuitously by ministers to criticize the attitudes and policies of the other country. Ministerial speeches should be used to explain, and to clarify. They should not be used to take "cheap shots" at the Americans. Canadians need only think how resentful they would feel if the U.S. Secretary of Agriculture or of the Treasury were to come to Canada to talk to Canadian audiences in critical terms about a beef import quota or the foreign investment policy and commented critically on internal Canadian problems. There is an unfortunate tendency in Canada to view the United States with a double standard. Canadians seem to feel their ministers speaking in the United States can tell Americans what is wrong with their policies. They can say what they wish in the United States while they resent intensely an American speaking critically of Canadian policy particularly while in Canada. To ensure that the speaking opportunities for ministers are fully productive, a procedure might be applied under which ministerial speeches in the United States should be submitted to the Department of External Affairs for its observations.

The Committee considers that there is a definite need to continue the present government programme of having key ministers give speeches to selected American audiences explaining and seeking understanding for Canadian policies which have an impact on the United States.

In addition to ministers' information efforts in the United States, there are other sources from which help could and should be sought in making Americans more aware of Canada. Pointing to the many American associations or organizations which have their annual meetings in Canada, the Hon. Jean-Luc Pepin suggested that,

> "Members of Parliament, Senators, distinguished back-benchers of the House should accept invitations to speak to them and even ask for them in order to express Canadian views."[110]

The former Canadian Ambassador emphasized the importance of people-to-people contact involved in Canadians speaking in the United States. He mentioned the

[109]MacEachen, (16:18)
[110]Pepin (11:13)

possibility of developing this technique at the university level, and of augmenting, in some manner, the Canadian clubs in the United States to help with the Canadian information programme.

In the private sector, a few groups are already making substantial contributions to educating and informing the United States about Canada. The Committee is aware particularly of the work of the Canadian-American Committee[111] in presenting and analyzing the facts of the relationship in its publications; the campaign organized by the Canadian Export Association to persuade U.S. businessmen that trade with Canada brings great benefits to both countries; the visits to the United States for Canadian businessmen organized by the Canadian Institute of International Affairs; and the furthering of Canadian studies in the United States by the Association for Canadian Studies in the United States. In addition there are a few leading businessmen who participate in binational meetings of associations and groupings and try to explain the Canadian perspective. Such institutions and individuals are performing a very important role, but as Mr. Pepin stated it is always the same businessmen who contributed "systematically and courageously" to this process.

The Committee concludes that there are a number of informed private sector Canadians and Parliamentarians who could participate more actively than they do in this important information and explanation process. From time to time the Department of External Affairs, through its embassy in Washington and its consulates in the United States receives requests for speakers from interested United States groups or associations. **The Committee recommends that the Department attempt to promote opportunities for increased numbers of experienced and knowledgeable Canadians to take part in this programme. At the same time the Committee urges the private sector to respond more fully and positively in recognizing the opportunities and responsibilities involved.**

(f) The Visitors' Programme

The visitors' programme appears to the Committee to be an area which could also be usefully expanded. As Mr. O'Hagan explained, this programme brings influential Americans to Canada. He stated

> "One has no difficulty imagining the results that derive from a regular and larger flow of educators, business leaders, academics, artists, professionals of all disciplines, public administrators and, especially, political people at all levels."[112]

While such events as Expo and the Olympics help in drawing American recognition and visitors to Canada, groups of specialists can be offered carefully structured visits

[111]A study group of business, labour, agricultural and professional leaders from both countries whose work is sponsored by two nonprofit research organizations—the National Planning Association in the United States and the C.D. Howe Research Institute in Canada.
[112]O'Hagan (14:10)

to present a more substantive Canadian image. Unfortunately, as the Director-General of Public Affairs in the Department of External Affairs told the Committee, the numbers which could be involved are limited by Canada's capacity to receive and look after this type of visitor.[113] **Although the Committee considers that the quality of such a programme is more important than the quantity of visitors received, it recommends that the whole programme be expanded.**

(g) Stepped-Up Information Work with Congress

In line with the deep concern expressed earlier that the need for a much closer liaison with Congress was essential, the Committee is convinced that more attention should be paid to getting factual information about Canada to Capitol Hill. It recognizes that this is not an easy task. While the embassy publication *Canada Report*, which seeks to explain authoritatively controversial Canadian policies is a good effort, it is clearly inadequate for the job although it may be useful to some Congressional staff. A typical Congressman's mail basket like that of his Canadian counterpart overflows with an endless stream of brochures, press releases, booklets, promotional flyers, leaflets and pamphlets making it an awesome task to winnow through, even for the most discerning staff member or Congressman. For this reason, published material is of relatively little value if it is not read. Initial approaches to Congress have to be made on a person-to-person basis. Personal links have to be developed carefully over a considerable period of time so that when issues crop up that need direct explanations, a channel will be available to an important Committee, and interest developed in any supplementary written material.

The Committee is concerned that such contact is minimal at present. How much information work for example has the embassy done in Congress in putting across Canada's and Manitoba's opposition to the Garrison Diversion project in North Dakota? This is an area where the U.S. Bureau of Reclamations is busily bolstering its case for the project in Congress. But has Congress been getting the Canadian side of the story? The same question could be asked in respect of other border irritants such as Point Roberts or the Skagit flooding or Great Lakes pollution. If the federal government does not move in this area, the Committee foresees that the provinces, out of desperation, will. Such a multiplication of the Canadian voice could become very dangerous to Canada's international image.

Another case in point is the auto pact trade figures. While numerous outspoken Congressional leaders knew in 1972 that the balance of automotive trade had been in Canada's favour by $230 million in 1971, how many Congressmen know that it was in the U.S. favour by $1.3 billion in 1974? Has the embassy the facilities to put these figures across to the members of the Ways and Means Committee? Has the embassy the personnel and budget capacity to contact those Congressmen who are currently

[113]Reid, (14:6)

protesting Canadian cable advertising deletion regulations or Canadian oil and gas export prices and to present them with the Canadian side of the issue?

The Committee considers that a more vigorous government information programme with the Congress is a matter of prime importance and should be pursued in the context of a closer liaison in general with United States legislators.[114]

(h) Funding Canada's Information Programme

As pointed out earlier, the Canadian government spent $2.3 million in 1974 on information programmes in the United States. This is dramatically less than other major trading nations such as members of the European Community, Japan or the U.S.S.R. spent in this regard.

The following is an example of what several Western European countries spend on a *per capita* basis in these areas as compared to Canada:

European countries—world wide—$7.00 per capita;
Canada—world wide—.45 per capita.

European countries—U.S. only—.63 per capita;
Canada—U.S. only—.10 per capita.

The same comparisons, when related to gross trade figures, are even more startling.

European countries—world wide—$1 per $230 of trade;
Canada—world wide—$1 per $4800 of trade.

European countries—U.S. only—$1 per $200 of trade;
Canada—U.S. only—$1 per $18,000 of trade.[115]

The figures for Japan and the U.S.S.R. approximate those of the European countries.

It is true that Canada has certain advantages vis-à-vis the United States in terms of proximity and language and unlike Germany and Japan has not had to overcome the unfavourable image from the war years. Nevertheless, as the Committee heard repeatedly during its study, there is widespread unawareness, disinterest and misunderstanding of Canadian viewpoints and policies in the United States. *Much* more needs to be done by Canada to combat this. As Dr. Claude Bissell stated

[114]See section 6, pages 46-49 above.
[115]The above figures are approximate only and the figures for "European countries" are averages of three large members of the EC so as to respect confidential information.

in the words quoted at the beginning of this chapter, the climate of Canadian-American relations is directly related to American knowledge and understanding of Canada.

The Committee realizes fully that it is recommending very substantial increased government expenditures at a time of fiscal restraint, but it is here dealing in priorities not total expenditures. Surely no other country has as much at stake as Canada in protecting its relationship with the United States. As we have already pointed out Canada-United States trade both ways amounts to over $42,000,000,000.00 annually. Even a small portion of this must not be placed in jeopardy for want of proper attention particularly now when Canada faces a balance of payments deficit approaching $5,000,000,000.00 per year on a world basis. To repeat an old military maxim we must reinforce strength not weakness and reallocate federal government resources as productively as possible in this area.

The Committee therefore urges the Government to give the highest possible priority to its information, cultural and academic relations programmes in the United States. In order to implement this proposal the Committee recommends that a departmental task force be set up to assess the financial requirements and to decide how best to strengthen the programmes.

This report is the first in a series of reports by this Committee on Canada-United States relations. The next phase of the study will deal with Canadian Trade Relations with the United States.

SUMMARY

of

CONCLUSIONS AND RECOMMENDATIONS

of

VOL. I OF REPORT ON CANADA-UNITED STATES RELATIONS

"THE INSTITUTIONAL FRAMEWORK FOR THE RELATIONSHIP"

Part I

A. Introduction

This report, the first in a series examining various aspects of Canada-United States relations, **deals only with the institutional framework through which relations between the two countries are conducted.** While the report examines mainly government-to-government contacts, the Committee recognizes that the intensive interchange which takes place in the private sector is of enormous significance and constitutes one of the basic strengths of the relationship.

B. The Range and Scope of the Relationship

Geographical and historical forces have moulded the relationship between the two countries helping to create social and institutional parallels and an easy mingling across the border of the two peoples. In almost every field including trade, finance, investment, energy, labour, environment, defence and culture, the two nations have developed close ties which have brought with them a high degree of interdependence.

C. The Changing Concept of the Relationship

In recent years the Canadian-American relationship has undergone a change due partly to internal and partly to external factors. The result has been that Canada no longer seeks, and the United States is no longer willing to grant, special treatment or special exemptions to Canada. Nevertheless in the light of the close geographic ties, the affinities and easy mingling of the two peoples, the similar institutions, similar life-styles, the ease of communication and the extent of trade, there is no doubt that a "special", in the sense of "unique", relationship still exists between Canada and the United States.

D. Current Problems

The problem areas between the two countries are increasing both in number and complexity. Not all the complaints are on the Canadian side as many Canadians seem to think.

The Committee has listed some of these current problems. The list serves to illustrate the importance of the subject to which the present report addresses itself, namely, the mechanisms and channels by which Canada and the United States conduct their relationship. With such a range of complex issues to be dealt with continually by the two countries, it becomes of increasing importance to ensure that the best channel of communication is used and that the most effective technique for negotiation is employed and that there is careful co-ordination of approaches in different policy areas.

In recent years in Canada there has been a rising nationalist concern especially over American control of the economy. In the Committee's opinion there is a danger that a nationalist climate can affect, detrimentally, how Canada approaches some of the current problems between the two countries. **The Committee considers that the Canadian government must ensure that difficult bilateral problems are handled in as balanced and mature a fashion as possible. There should be a continual awareness by government of the danger of an over-response to nationalist sentiment in its decision-making. It should try to set a constructive tone conducive to co-operation and problem solving.**

Part II CHANNELS OF COMMUNICATION

1. Summit Contacts

Summit meetings between Canadian Prime Ministers and American Presidents are valuable symbolic demonstrations of the two countries' friendship. They should not be held too frequently nor should they be thought of as a mechanism for negotiation of serious bilateral problems demanding complex solutions. There are occasions however when summit meetings can break a stalemate which may have developed at lower levels.

In making speeches in each other's country, leaders should beware of appearing to tell the other country how to run its affairs.

No Canadian Prime Minister has ever addressed the U.S. Congress although heads of governments from many other countries have done so and American

Presidents usually address the Canadian Parliament. **The Committee urges the government to explore the possibility of a future address to Congress by a Canadian Prime Minister.**

2. Ministerial Contacts

There are risks as well as advantages in the increasing number of one-to-one contacts at the ministerial level between Washington and Ottawa. They can help speed up the decision-making process and cut through bureaucratic red tape but if personalities clash such contacts are better left to the official level. Ministers should be well-briefed, careful not to make commitments the government cannot honour and wary of losing sight of the broad dimensions of an issue through a specialized single department perspective.

In view of the importance of the Canada-United States relationship, a relationship which is in some respects of more importance to Canada than all its other external relations combined, **the Committee recommends to Cabinet that some mechanism be worked out to ensure that all Cabinet memoranda are assessed in the light of the effect, if any, policy proposals would have on Canadian relations with the United States.** This would help prevent an unintentional impact on the United States of Canadian domestic policies and promote the assessment of policies in terms of the broader implications for Canadian-American relations.

Joint Ministerial Committee meetings have in the past provided an antidote to departmental "tunnel vision" but unfortunately the value of these meetings diminished greatly as the structure grew more formal and rigid, as public anticipation compelled publicly announced solutions to complex problems and when it became increasingly difficult to assemble eight or ten busy U.S. Secretaries and Canadian Ministers together for two or three days. **The Committee has concluded with regret that this joint institution, in the structured form it has recently taken, serves no constructive purpose and may even be counter-productive in the conduct of relations between the two countries.**

3. Official-level Contacts

The principal Canadian institutional mechanisms for bilateral contacts at the official level are the Department of External Affairs, the Canadian Embassy in Washington and the Canadian Consulates scattered across the United States. There is also a multitude of regular contacts between officials of functional departments in the two capitals, as well as contact at multilateral conferences.

In order to achieve a broad focus on the relationship which is now lacking **the Committee suggests that the government explore the idea of joint meetings at the**

Canadian deputy minister—U.S. deputy secretary level. The meetings should be unstructured, informal and called on an 'ad hoc' basis whenever either side considers such a meeting might be useful.

The Committee emphasizes the need for effective policy co-ordination at the official level. It considers that there is no alternative to using the traditional channel, the Department of External Affairs, as the central co-ordinating mechanism, but there is also a responsibility on the part of the functional departments to assist in this process by keeping External Affairs fully informed on all aspects of their dealings with the United States.

4. Provincial Contacts or Involvement

The provinces are involved, directly or indirectly, in Canadian-American relations at three levels: through province-state contacts, via the federal government machinery with Washington and within the framework of an international conference where Canadian-American issues are being worked out. At the province-state level there is a multitude of administrative-type agreements, arrangements and understandings worked out across the border without the involvement of either federal government. Careful judgment should be exercised by provincial authorities in assessing whether the problem they are dealing with is likely to become an international issue, in which case the federal government should always be involved.

The Committee suggests that where there are extensive relations with a neighbouring state involving difficult problem areas, the provinces should consider assigning to a provincial government official the responsibility of overseeing the relationship. The provinces should keep the federal government informed of its administrative agreements, arrangements or understandings with American states, and of any official visits to the United States of provincial ministers or their senior officials.

The 'provincial interests officer' at the Canadian Embassy in Washington and the 'information flow system' which has been established to provide interested provinces with relevant information concerning United States' developments is a positive step forward in coping with the problem of provincial involvement in Canadian relations with the United States government. **The Committee suggests that the process might be improved if the Canadian Embassy officials responsible for provincial interests could spend some time in the capitals of interested provinces in order to become better acquainted with the provinces' perspectives and needs.** In the selected reporting which the embassy is doing for the provinces, more emphasis should be put on economic and commercial subjects and less on the traditional diplomatic reporting. **Federal civil servants from Ottawa should be commissioned to spend a period of time in provincial capitals, working if possible in offices concerned**

with intergovernmental affairs in order to be better able to understand provincial problems and perspectives in the foreign affairs field. A federal programme called *Interchange Canada* is already in place under which such an exchange could be worked out.

Inversely, **provincial officials could gain a better understanding of the federal services available in Washington if they spent a week or two at the Canadian Embassy.** When a province has a particular interest in a specific developing situation, a representative from that province should be assigned to the embassy staff on a temporary basis.

While there have been positive initiatives taken by the federal government to improve the consultation and co-ordination procedures by which the provinces have some input into foreign policy formulation, there are still gaps. Further refinement of the processes is needed. **The Committee considers that the federal government has the prime responsibility for developing suitable mechanisms to involve the provinces in consultation in respect to policies toward the United States where relevant to provincial interests. The Committee also believes that the provinces have a responsibility to equip themselves with a central contact point or channel of communication with which the federal authority can deal on foreign affairs matters.**

5. Special Joint Mechanisms

The Committee recognizes the undisputed successes of the International Joint Commission (IJC) over its almost 65 year history. In the face of more complex problems arising along the border, the Committee makes two recommendations to improve and broaden slightly the IJC's functioning. **The Committee recommends that the IJC should be given the authority on its own initiative to make preliminary examinations or assessments of potential pollution problems along the border in order to point out potential sources of trouble and to suggest to the two governments that a reference should be made.** This would, in effect, constitute a watching brief on environmental problems all along the border. At present the Commission must await a reference from the governments before making an investigation.

The Committee also recommends that the IJC should have extended power to publicize all its recommendations, as it already has in respect to its findings under the Great Lakes Water Quality Agreement. Commission recommendations can only be effective when they are adopted and carried out by the governments and agencies concerned. After submitting its recommendations, the IJC should be able to ask for explanations, when a suitable period has elapsed, as to why no action has been taken.

6. Legislative Channels

For a variety of reasons, the Canadian government has been reticent in developing an active programme of liaison with influential Congressional figures. The Committee learned that other major countries' governments feel much less constrained than Canada by the fact that their ambassadors are accredited to the Executive Branch. Canada may be overestimating the importance of this factor while underestimating the significance of the U.S. constitutional division of powers with the consequential strong role of Congress. Or it may consider that the U.S. State Department is always able and willing to interpret the Canadian position effectively to Congress, an assessment with which the Committee cannot agree. Whatever the reason, American witnesses before the Committee considered that the Canadian Embassy could develop a far more active programme of contacts with Congress in order to ensure that the Canadian point of view is understood.

Recently Congress attained significant new powers particularly in the economic field. It is asserting a vigorously independent attitude in foreign and trade policy matters. At the same time, American witnesses told the Committee that there is a great lack of awareness in Congress of the extent and depth of Canadian-American economic ties. Almost inadvertantly, Congressional unawareness or misunderstanding of the Canadian position could cause severe economic or trade dislocations in Canada.

The Committee has concluded that Canada's contacts with Congress have been neglected for too long. The Committee urges the government to provide the embassy as soon as possible with the instructions and the means for a greatly expanded Congressional relations programme.

The Committee considers that no other inter-parliamentary link is nearly as important to Canada as the Canada-United States Inter-Parliamentary Group. **The Committee strongly urges the selection of delegates to the Canada-United States Inter-Parliamentary Group meetings who are carefully chosen as to individual areas of expertise and adequately briefed in order to put Canada's case in the most effective possible manner to American legislators.**

7. The Impact of Resolutions of Parliament

Quite apart from its legislative role, the Parliament of Canada can act in ways which may have an impact on Canadian relations with the United States. In recent years there have been a number of Parliamentary resolutions critical of American activities or policies passed by unanimous consent. The government, for a variety of reasons, was associated with each resolution. Because of differences in the two political systems and the fact that the Canadian system is not widely understood in the United States, there has been, on occasion, misunderstanding of the government's action by the American administration.

While the Committee has no criticism of Parliament for exercising its constitutional prerogative, it considers that it is important for the government, as distinct from Parliament, to consider carefully the effect of its action in such circumstances.

Part III TECHNIQUES FOR CONDUCTING RELATIONS

1. Advance Consultations

In the Committee's opinion it is in Canada's interest to be diligent in employing advance consultation and prior notification techniques with the United States so that a pattern is established and neither side will take each other by surprise.

2. Negotiating Techniques

As the more vulnerable member of the North American relationship, Canada needs to develop and utilize the most effective negotiating techniques possible in bargaining with the United States. The traditional preference for 'issue-by-issue' bargaining can no longer be rigidly adhered to as economic issues are becoming increasingly linked. Canada should continue to commit its highest quality negotiating teams to the bargaining process. In tough bargaining situations it is important to find the right tool or leverage to bring both sides into a give-and-take mutual-gain situation. In certain long-term bilateral arrangements, the inclusion of an automatic review provision after a certain period could be helpful in preventing the build-up of feeling on either side that it had the worst of the bargain. Occasionally unresolved bilateral issues can be successfully resolved at a multilateral forum. Overall, the interdependence of the two countries and the ability of either to cause serious economic harm to the other imposes a restraint on both sides in bilateral bargaining.

The Committee considers, where possible in a bilateral dispute, there should be a recourse to the common fact-finding technique similar to that which was used so successfully in the trade dispute of 1971 and 1972.

The Committee finds little basis for the notion that private rather than public negotiations have worked against Canada's interest. **While occasionally it may prove beneficial to publicize a controversy, better results are more likely to be achieved in the normal give-and-take of private bilateral bargaining sessions.** Public confrontation as a Canadian negotiating tool would very quickly become counter-productive. To guard against public suspicion, all relevant details of formal agreements with the United States should be made public as soon as possible to permit public examination and parliamentary debate if necessary.

3. Arbitration or Judicial Settlement

There may be certain issues between Canada and the United States where negotiations have reached an impasse but where resolution is imperative if the overall relationship is not to be damaged. Certain salt water boundary disputes could fall into this category. The Committee considers that in such cases, it might be helpful if the facts of the case were available to the public for open discussion by Canadian legal experts. Further it suggests that an independent rapporteur could be appointed to clarify the facts, list the claims and report back to the two parties. Finally **the Committee considers that the government then should consider very seriously if the arbitration process or judicial settlement would be the wisest course, rather than leaving potentially explosive issues unresolved.**

If the government turns to arbitration it should give serious consideration to the possibility of using the regional chamber system of the International Court of Justice.

4. Bridging the Information Gap

There is an urgent need to try to counter the widespread lack of understanding and information about Canada in the United States, and to explain the need for Canadian policies or actions which might be regarded as detrimental to American interests. A beginning in this difficult task has been made but only a beginning. *Much* more needs to be done.

The Committee urges that Canada expand dramatically its academic relations programme in the United States. The role of the consulates in information work should be increasingly emphasized and expanded. One method of putting Canada's case across in the United States is by means of public speaking by qualified Canadians. The Committee considers that Canadian ministers should continue their efforts to explain and gain understanding for Canadian policies to key American audiences. **In addition it considers that there are knowledgeable Canadians in the private sector and in Parliament who can contribute to this process. The Committee hopes that whenever possible the Department of External Affairs will seek to facilitate such speech-making activities. The visitors' programme of the Department of External Affairs which seeks to bring informed or influential Americans to Canada should be expanded.**

In line with its earlier recommendations for a closer liaison between the Canadian Embassy and Congress, **the Committee recommends that the government pursue a much more vigorous information programme with Congress in order to gain understanding from this important body for Canadian policies affecting the United States.**

As demonstrated by the startling figures developed by the Committee (see page 73), Canada spends dramatically less than other major trading nations in its information, cultural and academic programmes in the United States. No other country has as much at stake as Canada. **The Committee recommends that the government give a new and higher priority for the funding of the Canadian information programme in the United States.**

"*Good Canadian-American relations depend ultimately on American knowledge and understanding of Canada.*"

This report is the first in a series of reports by this Committee on Canada-United States relations. The next phase of the study will deal with Canadian Trade Relations with the United States.

Appendix I

A Bicentennial Gift from Canada to the United States

The year 1976 is the 200th anniversary the United States of America. Canada will wish to offer the United States a gift to mark the occasion.

In the Committee's opinion, great care should be taken in the selection of Canada's gift. The occasion is a unique one. The Canadian bicentennial project should be a visible and enduring one which not only present but future generations of Americans will see and enjoy. A substantial amount of money should be set aside for the purpose. If it were a question of a Canadian pavilion in a World's Fair the cost to Canada for a notable display would be in the millions. By comparison, the bicentennial year project is considerably more important to Canada.

The Committee has heard testimony to the effect that the government undertook a cultural programme at the Kennedy Centre in Washington—a project which it has linked to the U.S. Bicentennial. It also understood that Canada would participate in the Centennial Parade of the Roses in Pasedena, California on January 1, 1976 and in the presentation at the East-West football game on January 3.

In themselves, such contributions and programmes are commendable. Large numbers of American television viewers watch the parade and the football game resulting in maximum exposure for the Canadian participation. None of these programmes, however, has a lasting commemorative value which is appropriate for such an occasion.

The Committee understands that Canada is preparing a book which highlights the interaction of the peoples of the two nations and that a Canadian grant to the Centre of Canadian Studies at the School of Advanced International Studies at Johns Hopkins University, Washington has been linked to the bicentennial year. The Committee is unaware, however, of what Canada's major presentation will be to mark this important anniversary.

The Committee recommends that the government give urgent consideration to this problem of an appropriate bicentennial gift to the United States. The Committee wishes to emphasize the desirability of a permanent and lasting quality to such a gift and the need to choose something which will stand as a visible and constant reminder of Canada to the people of the United States.

Appendix II

STANDING SENATE COMMITTEE ON FOREIGN AFFAIRS

(1974-1975)

Issue Number	*Date of Meeting*	*Witnesses Heard*
		(*Second Session—Twenty-ninth Parliament (1974)*)
1	March 28/74	*Department of External Affairs—* Honourable Mitchell Sharp, Secretary of State for External Affairs; Mr. Keith MacLellan, Director of U.S.A. Division.
2	April 3/74	Mr. William Diebold, Jr., from the Council on Foreign Relations, New York, U.S.A.
**In Camera*	May 1/74	Dr. Arthur J.R. Smith, President, Conference Board in Canada, Ottawa, Canada.
3	May 2/74	Professor Harry Johnson, Professor of Economics, University of Chicago, Chicago, U.S.A.
***In Camera*	May 8/74	*Department of External Affairs—* Mr. Michel Dupuy and Mr. Ralph E. Collins, Assistant Under-Secretaries of the Department. *Department of Transport—* Mr. E. Butler, Senior Executive, Policy Planning and Major Projects; Mr. J.E. Seal, Policy Adviser, Atlantic Region; and Mr. A.R. Conboy, Director, Policy Implementation.
4	May 9/74	*Statistics Canada—* Dr. Sylvia Ostry, Chief Statistician of Canada; Mr. Jacob Ryten, Director External Trade Division; and Mr. E.B. Carty, Special Adviser on Balance of Payments.

**Dr. Smith's opening statement is printed as Appendix "B" to Issue #3 of the next session.*

***Portions of the testimony of the Departmental officials are printed as Appendix "A" to Issue #3 of the next session.*

Issue Number	*Date of Meeting*	*Witnesses Heard*
		(*First Session—Thirtieth Parliament (1974-1975)*)
**In Camera*	Nov. 7/74	Mr. Willis Armstrong, Washington, D.C., former Senior Official of the U.S.A. State Department, presently a consultant to United States Council of the International Chamber of Commerce.
***In Camera*	Nov. 28/74	Mr. Robert B. Bryce, Ottawa, Canada, former Clerk of the Privy Council.
2	Dec. 5/74	Mr. Robert J. Schaetzel, Washington, D.C. former United States Ambassador. *Note: Also included are Appendices "A" and "B"—the testimony of Messrs. Armstrong and Bryce respectively.*
3	Dec. 12/74	Mr. H. Ian Macdonald, Toronto, former Deputy Minister of the Department of the Treasury and Economics and Intergovernmental Affairs of the Province of Ontario. *Note: Also included are Appendices "A" and "B"—portions of the testimony presented during the past session of Parliament by Senior Departmental Officials and by Dr. Arthur Smith, respectively.*
4	Jan. 23/75	Mr. Marcel Cadieux, Washington, D.C. Canadian Ambassador to the United States.
5	Feb. 4/75	Mr. Rufus Smith, Washington, D.C., former Deputy Assistant Secretary in charge of Canadian Affairs Bureau, U.S. Department of State.
6	Feb. 18/75	Professor Maxwell Cohen, Ottawa, Canada, Canadian Chairman of the International Joint Commission; and Mr. Lloyd MacCallum, Legal Adviser to the Commission.
7	Feb. 20/75	Honourable Richard B. Hatfield, Premier of New Brunswick; and Governor Kenneth Curtis, former Governor of the State of Maine, U.S.A.
8	Mar. 4/75	Honourable Jack Davis, Vancouver, B.C., former Minister of Fisheries and of the Environment.
9	Mar. 6/75	Professor Peyton Lyon, Professor of Political Science and International Affairs, Carleton University, Ottawa.

**See Appendix "A", Issue #2*

***See Appendix "B", Issue #2*

10	Mar. 18/75	Professor George Francis, University of Waterloo, Ontario; and Professor Leonard B. Dworsky, Cornell University, New York State.
11	Mar. 25/75	Honourable Jean-Luc Pepin, Ottawa, Canada, former Minister of Industry, Trade and Commerce.
12	Apr. 29/75	Professor Ronald St.J. Macdonald, Dean of Faculty of Law, Dalhousie University, Halifax, Nova Scotia.
13	May 13/75	Dr. Gerard Rutan, Director, Canadian and American Studies Program, Western Washington State College, State of Washington, U.S.A.; and Dr. Walter Young, Chairman, Department of Political Science, University of Victoria, British Columbia.
14	May 15/75	*Department of External Affairs—* Mr. Patrick Reid, Director General, Bureau of Public Affairs; Mr. L.R. O'Hagan, Minister-Counsellor (Information) Canadian Embassy at Washington, D.C.; Mr. R.C. Anderson, Consul General of Canada, Seattle, State of Washington, U.S.A.; and Mr. Allan Roger, Director of Information Division.
15	May 22/75	Mr. Alan Hockin, Toronto, Vice-President of Toronto-Dominion Bank; and Dr. David Abshire, Washington, D.C., Chairman, Center for Strategic and International Studies.
16	June 10/75	*Department of External Affairs—* Honourable Allan J. MacEachen, Secretary of State for External Affairs; Mr. Basil Robinson, Under-Secretary; and Mr. Glen Shortliffe, Director, United States Division.
17	June 25/75	Ambassador Rodney De C. Grey, Head of the Canadian Delegation to the GATT (*General Agreement on Tariffs and Trade*)

ANNEX "A"

THE SENATE OF CANADA

STANDING SENATE COMMITTEE

ON

FOREIGN AFFAIRS

The Honourable GEORGE C. van ROGGEN *Chairman*

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OF PROCEEDINGS

Related to the

Committee's Study of Canada-United States Relations
"The Institutional Framework for the Relationship"

Index "A"—respecting Issues Nos. 1-4, inclusive, 1974

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THEMATIC INDEX

This thematic index is concerned with the printed record of the Proceedings of the Standing Senate Committee on Foreign Affairs during the Second Session of the 29th Parliament (1974), and that part of the Proceedings of the First Session of the 30th Parliament (1974-75) that relates to Canadian Relations wlh the United States as referred to in Volume 1 of the Committee's Report.

The index is in two parts:

a. One part deals with printed issues nos. 1 to 4 inclusive of the 1974 Session, and

b. The second part refers to issues nos. 2 to 17, inclusive, of the 1974-75 Session.

Issue no. 1 of the 1974-75 Session is not indexed here as it dealt with another subject.

References are to pages of various issues. For example:

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Balance of trade 1:16-7—means pages 16 and 17 of Issue No. 1

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FIRST SESSION—THIRTIETH PARLIAMENT
1974-76

THE SENATE OF CANADA

PROCEEDINGS OF THE

STANDING SENATE COMMITTEE ON

FOREIGN AFFAIRS

The Honourable GEORGE C. van ROGGEN, *Chairman*



Issue No. 22

TUESDAY, FEBRUARY 10, 1976

Twenty-First Proceedings Respecting:

Canadian Relations with the United States

(Witnesses: See Minutes of Proceedings)



THE STANDING SENATE COMMITTEE ON FOREIGN AFFAIRS

The Honourable George C. van Roggen, *Chairman*

The Honourable Allister Grosart, *Deputy Chairman*

and

The Honourable Senators:

Asselin	Lafond
Barrow	Laird
Bélisle	Macnaughton
Cameron	McElman
Carter	McNamara
Connolly (*Ottawa West*)	Rowe
Croll	Sparrow
Hastings	Yuzyk

Ex Officio Members: Flynn and Perrault.

(Quorum 5)



Order of Reference

Extract from the Minutes of Proceedings of the Senate, Wednesday, November 6, 1974:

"Pursuant to the Order of the Day, the Senate resumed the debate on the motion of the Honourable Senator van Roggen, seconded by the Honourable Senator Riel:

That the Standing Senate Committee on Foreign Affairs be authorized to examine and report upon Canadian relations with the United States;

That the Committee be empowered to engage the services of such counsel and technical, clerical and other personnel as may be required for the purpose of the said examination, at such rates of remuneration and reimbursement as the Committee may determine, and to compensate witnesses by reimbursement of travelling and living expenses, if required, in such amount as the Committee may determine;

That the papers and evidence received and taken on the subject in the preceding session be referred to the Committee; and

That the Committee have power to sit during adjournments of the Senate.

After debate, and—
The question being put of the motion, it was—
Resolved in the affirmative."

Robert Fortier,
Clerk of the Senate.

Minutes of Proceedings

Tuesday, February 10, 1976
(27)

Pursuant to adjournment and notice, the Standing Senate Committee on Foreign Affairs met at 2:30 p.m. this day.

Present: Honourable Senators van Roggen (*Chairman*), Carter, Connolly (*Ottawa-West*), Croll, Lafond, Laird, McElman and McNamara. (8)

Present but not of the Committee: Honourable Senator Haig. (1)

In attendance: Mr. Peter C. Dobell, Director, Parliamentary Centre for Foreign Affairs and Foreign Trade; Mrs. Carol Seaborn, Special Assistant to the Committee; Messrs. Robert Robichaud and Bill Neil, Research Assistants to the Committee; *And also*; Mr. David Black, Chief, International Resources Division; and Mr. John Donaghy, Chief, GATT Division, both from the Office of General Relations, Department of Industry, Trade and Commerce.

The Committee continued its study of Canadian Relations with the United States.

Witnesses: From the Department of Industry, Trade and Commerce:

Mr. T. M. Burns, Senior Assistant Deputy Minister, Operations;

Mrs. Eileen A. Mahoney, GATT Division, Office of General Relations;

Mr. Carl J. Wenaas, Chief, Canada-U.S. Division, Macro-economic Analysis Group; and

Mr. Charles J. Kelly, Assistant Director, U.S.A. Division, Western Hemisphere Bureau.

During the course of their submissions, the Departmental officials made use of tables and charts for the purposes of illustration.

Agreed,—That the above mentioned tables and charts be reproduced in the Committee's printed proceedings if that is feasible.

At 5:08 p.m. the Committee adjourned to the call of the Chairman.

ATTEST:

E. W. Innes,
Clerk of the Committee.

The Standing Senate Committee on Foreign Affairs

Evidence

Ottawa, Tuesday, February 10, 1976

The Standing Senate Committee on Foreign Affairs met this day at 2.30 p.m. to examine Canadian relations with the United States.

Senator George van Roggen (*Chairman*) in the Chair.

The Chairman: Honourable senators, we welcome back this afternoon Mr. Tom Burns, Senior Assistant Deputy Minister, Operations Department of Industry, Trade and Commerce, who gave evidence before us on December 11 last, and who is with us today to give further evidence in the opening stages of the second phase of our study of Canada-United States relations.

As you are all aware, honourable senators, the first volume of the report arising out of this study was released just prior to the resumption of the Senate after the Christmas recess. Before Christmas, we were given permission by the Senate to release the report so that copies of it could be taken by the Canadian members to the Canada-U.S. interparliamentary meeting which took place in the United States commencing January 29. I might add that the American members at that meeting very much appreciated receiving copies of the report, and I think it added greatly to the effectiveness of the meeting.

We are now into the second phase of our study, which in turn will be the subject of Volume 2 of our report. This will deal with trade between Canada and the United States in its broadest aspect; that is to say, the total exchange of goods and services across the boundary between our two countries. Today Mr. Burns will be opening the subject with specific reference to tariffs and the effects they have on the structure of our trade with the United States.

I might mention at this point that two weeks from today, on February 24, we will be dealing with non-tariff barriers, and then on February 26 we will be dealing with the North American Automotive Pact.

Mr. Burns is accompanied today by a number of officials from his department. One is Mrs. Eileen A. Mahoney, GATT Division, Office of General Relations, who will assist Mr. Burns in making the presentation. Mrs. Mahoney has been involved in the preparation of the multinational trade negotiations, the Tokyo Round, currently under way in Geneva. One of her main responsibilities involved considerable work in relation to tariffs. The other officials are: Mr. David Black, Chief, International Resources Division, Office of General Relations; Mr. Carl J. Wenaas, Chief, Canada-U.S. Division, Macro-economic Analysis Group; Mr. Charles J. Kelly, Assistant Director, U.S.A. Division, Western Hemisphere Bureau; and Mr. John Donaghy, Chief, GATT Division, Office of General Relations.

Senator Carter has kindly agreed to lead off the questioning this afternoon, but before calling on him to do so I shall ask Mr. Burns if he has an opening statement that he would like to make.

Senator Croll: Mr. Chairman, was Mr. Burns here the last time?

The Chairman: Yes.

Senator Croll: Mr. Burns, do you remember that I asked you a question on the Auto Pact?

Mr. T. M. Burns, Senior Assistant Deputy Minister, Operations Department of Industry, Trade and Commerce: Yes, sir.

Senator Croll: It was a quickie and I received a quickie reply, neither one of us being satisfied with what happened. I notice that we will be dealing with the Auto Pact on February 26. I am very concerned and suggest that others may also be with respect to the Auto Pact. We should know more about it and ensure that we will be documented well in advance of dealing with it. I do not mean by that, to receive information on my desk on Monday morning for a meeting on Tuesday, but well in advance in order that we may give it due consideration and understand it. I must say to Mr. Burns that there is a great deal of misunderstanding with reference to the Auto Pact, and it may well become an issue of some concern in the future. We would, therefore, like to know what it is all about.

The Chairman: Mr. Burns, do you have an opening statement?

Mr. Burns: I do, Mr. Chairman.

The Chairman: Please proceed.

Mr. Burns: Mr. Chairman, I would like to deal with three topics today, if I may. First, I will go into a little more detail on the commodity structure of our trade with the United States, which was a subject opened up on the last occasion on which I was a witness before your committee. I will briefly go over the question of upgrading of resources before exporting, which was another subject that arose during the discussion following our earlier presentation. Thirdly, I shall ask Mrs. Mahoney to speak quite precisely with reference to the tariff profile as between Canada and the United States, drawing some of the comparisons of the tariff profile of our two other major trading partners, the Community and Japan, in order to put the U.S. tariff profile into perspective. If that is agreeable, I shall proceed.

The Chairman: Yes, please.

Mr. Burns: Obviously, in providing a commodity category, one must produce a rather detailed and organized system because of the hundreds of thousands of different kinds of goods which are produced and traded in a modern

technological society. We have circulated a paper, which I am working from.

TABLE 1
PERCENTAGE COMPOSITION
OF CANADA'S TRADE WITH THE UNITED STATES
BY COMMODITY SECTION, 1973, 1974

	EXPORTS		IMPORTS	
	1973	1974	1973	1974
	(Percent)			
Live Animals	0.6	0.3	0.6	0.3
Food, Feed, Beverages & Tobacco	12.1	11.9	7.9	7.6
Inedible Crude Materials	20.2	24.7	8.6	12.9
Inedible Fabricated Materials	33.1	33.9	18.4	20.5
Inedible End Products	34.0	29.2	64.5	58.7
Total	100.0	100.0	100.0	100.0

Table 1 therein shows the percentage composition of our trade with the United States in terms of the five major commodity sections employed in Canada's commodity classification system: (1) live animals; (2) food, feed, beverages and tobacco; (3) inedible crude materials; (4) inedible fabricated materials; and (5) inedible end products. Of these, in relative terms, there is little trade in live animals between Canada and the United States, nor are food products a major element of trade between our two countries. the vast bulk of the trade between Canada and the United States is in what is described as inedible commodities.

The names of these categories give a general indication of the commodities included in them, but it might be helpful to give some illustrations which will identify them more clearly. The category of "live animals" is self-explanatory. It includes all kinds of live animals and birds, regardless of whether they are intended to be used for food or not. Live fish and other seafoods, except those for propagation or to be used for pets are, however, classified with food. Included in the "food, feed, beverages and tobacco" category are grains used for human or animal consumption; meat, fish, fruits and vegetables, whether fresh, frozen or canned; sugar, coffee, tea, distilled alcoholic beverages; and other beverages and tobacco. The third category, "inedible crude materials", are those inedible products which come directly from a farm, forest or mining operation and have undergone no additional processing, apart from cleaning or separation from unwanted materials. They include soya beans, pulpwood, wool, cotton, ores and concentrates, coal, crude petroleum and natural gas.

The fourth and fifth categories, "inedible fabricated materials" and "inedible end products", are both products of manufacturing activity and the problem is to distinguish between them. In the commodity system which is used a fabricated material is defined as "anything which forms a part of something else (except machine parts and accessories) or is commonly incorporated into something else in a further production process".

An end product is "anything which retains its individual identify (even though it may be used for further production)". In other words, the end product is not itself changed when used for further production but a material is changed. A fabricated material may be the result of a complex industrial process and an end product the result of a simpler process, but with some exceptions any fabricated material may be converted into an end product after further manufacturing.

Under the category of "inedible fabricated materials" are included such items as lumber, wood pulp and its products, such as newsprint and other papers; yarn, thread and fabrics; steel and steel products, such as wire, plate and structural shapes; non-ferrous metals and their products, such as, sheet, pipe, rod and insulated wire and cable; gasoline and electricity. Included under the category of "inedible end products" are such commodities as machinery, engines and turbines, electric generators and motors, railway rolling stock, motor vehicles, motor vehicle parts, television sets, various kinds of equipment, tools, stoves, furniture and clothing.

It will be apparent that one must exercise care in interpreting the commodity trade statistics. It is unwise, for instance, to assume that an end product is always a more elaborately transformed commodity that a fabricated material. Nor can one assume that an exported fabricated material has the potential to be further processed for export as an end product. Two major examples from our forest industries might be cited. One of them is newsprint, which is classified as a fabricated material. To export newsprint in the form of an end product it would presumably have to be exported in the form of newspapers, which is an unlikely possibility for large-scale trade. Another example is lumber, which is also classified as a fabricated material. The end product of lumber is often a building. To export lumber in the end product form—that is, as a building—is again an unlikely possibility, except perhaps in the case of prefabricated houses.

Canada's trade with the United States, therefore, is largely in the form of manufactured goods—that is, in the form of either fabricated materials or end products. In 1974, about 34 per cent of our exports to the United States were in the form of inedible fabricated materials, and 29 per cent as inedible end products. Moreover, nearly all of our exports of food, feed, beverages and tobacco have undergone some manufacturing process. Whisky, for instance, is a major Canadian export to the United States. In total, we have estimated that about 72 per cent of Canada's exports to this market in 1974 were in manufactured form. Crude petroleum made up more than half of the remainder which had not undergone any manufacturing process. As exports of crude petroleum are phased out, presumably the proportion of our exports to the United States in manufactured form will rise.

Most of our imports from the United States are also in manufactured form. In 1974, 21 per cent were in the form of inedible fabricated materials and 59 per cent as inedible end products. About half of Canada's imports of food, feed, beverages and tobacco from the United States were in processed form. In total, about 91 per cent of Canada's imports from the United States in 1974 had undergone some form of manufacturing.

A significant part of Canada's exports to the United States may be further classified by their primary industry source and as to whether they are exported as crude or fabricated materials. This has been done in Table 2. End products in general, however, which made up nearly 30 per cent of our exports to the United States in 1974, cannot readily be classified as to the primary industry from which the component materials originate.

Mr. Chairman, we did make an attempt to take this $8 billion and distribute it among the primary industry sources, but we came to rather curious results. Should automobiles be shown as products of metal and non-metal mining, for example? It is rather difficult to determine.

Fully manufactured goods turned out to be not really identifiable in most cases with the source of the primary material.

Senator Connolly: Mr. Chairman, if the rules allow, may I ask Mr. Burns a question at this point? Mr. Burns, on page 2 are listed the five different categories of types of product which are exported by Canada to the United States and vice versa. I can understand that for the purposes of dealing with global figures in the total trade picture it is desirable for it to be broken down to different areas, if not specific products with which one is dealing. Are these categories and classifications, as selected in this document, used in trade discussions? Are they used by OECD, in the GATT negotiations? Are they a Canadian convenience, or part of, I suppose, the vocabulary of international discussions?

Mr. Burns: Senator Connolly, the arrangement that I have been describing is a Canadian arrangement, but there are international agreed classifications. There is, for example, something known as the Standard International Trade Classification and it is possible to correlate each national set of figures into this standard international trade classification for comparative purposes. The UN, for example, uses that system to transform individual countries' statistics into a comparable basis. When they are issuing universal statistics they are relatively on the same basis. Insofar as tariff negotiations are concerned, other sets of figures are used because the focus of attention, so far as the tariff side is concerned, is in relation to particular items of individual countries' tariffs.

So, again, these figures are transformed into imports by tariff item number. For example, the MTN in Geneva has prepared for its own imports a set of statistics that are set out in tariff form rather than in this more general classification.

Senator Connolly: It is an arbitrary thing?

Mr. Burns: It is, sir.

Senator Connolly: Perhaps I should have asked a more pugent question. Do the Americans usethis classification in any of their discussions with us, for example? In other words, we have heard from time to time that very often in our statistical talk with the Americans we are not talking about the same figures. Are these classifications terms which are used by the Americans when they are looking at their figures in respect of their trade with us?

Mr. Burns: Subject to Mr. Wenaas correcting me, the American system and our system are not identical. The problem you have described, senator, is one that is recognized on both sides. Indeed, in a particular case the statistical agencies on both sides of the border have done a great deal of work to reconcile the two sets of figures—that is, the automobile sector. Then, in our overall trade terms there has also been a good deal of work done to eliminate the differences in result in the total trade terms as between the two countries. In other words, there is a common figure or commonly accepted reconciliation as between the Americans and ourselves about what is the trade balance each year.

Senator Connolly: In other words, these terms are really not terms that are used either in our discussions specifically with the Americans or used in the vocabulary of international agencies describing terms. I am not being critical of them. I gather they are set out here for our education and are a convenient way of breaking down the subject matter of the trade between the two countries.

Mr. Burns: From a Canadian perspective, this particular categorization is not bad, because it demonstrates the kind of structure of our trade as between, for example, what is called inedible fabricated materials and edible end products. That is a subject of some interest in the country generally, and I think that a breaddown of those categories serves a useful domestic purpose.

The Chairman: Senator Connolly interjected with a good point. I was going to pursue the same matter, only intended to wait until later to do so. I think that what you are saying is that they are Canadian words and not international words. I think that items two, three, four and five are all eminently logical. Again, they also represent substantial chunks of our trade. What logic is there in taking out live animals when they are less than a half of one per cent and not lumping them in with food, feed, beverages and tobacco? Is this a genuflection to the farmers?

Mr. Burns: I think you should direct that question, Mr. Chairman, to Statistics Canada. Perhaps Mr. Wenaas can answer that question. There might be some historical reasons for that.

Mr. C. J. Wenaas, Chief, Canada-U. S. Division, Macroeconomic Analysis Group, Department of Industry, Trade and Commerce: Mr. Chairman, I discussed this question with Statistics Canada. They had the option of treating live animals separately or lumping them in with a miscellaneous category. They decided there was merit in treating them separately because they are a special category, even though they are not very large. It was exceedingly difficult to classify them in a logical way with any other group. That was the principal problem.

The Chairman: Would I be correct in saying that nearly all agricultural products would come under item 2: food, feed, et cetera?

Mr. Wenaas: That is right.

The Chairman: For our purpose, we could lump items 1 and 2 together?

Mr. Wenaas: Yes. This is also consistent with the international commodity classification system which shows live animals separately and then groups them with food. This was another reason why Statistics Canada followed this practice.

Mr. Burns: I could add a facetious comment, Mr. Chairman. About 15 years ago we got into discussion with the United States about the problems of stray animals across the border.

The Chairman: It may be that we do not like to think in terms of lumping live creatures with inanimate objects.

Senator McElman: Mr. Chairman, although this is a very small part of our total trade picture, it is not small so far as the agricultural community is concerned. The number of live animals runs into hundreds of thousands. It is a very real importance in some parts of the country particularly, because of the difficulties that have arisen in the last five years—for example, the argument between Butz and Whelan. It is now getting back to its former stable position, but there has been very substantial fluctuation here. The number of animals involved, when we

look at the feeder cattle industry, are tremendous. It is an important break out for the agricultural industry.

The Chairman: I think statistics show that it fluctuated by 100 per cent in one year, whereas none of the other categories did. Please continue, Mr. Burns.

Mr. Burns: Mr. Chairman, may I turn to table 2 and make some comments on it.

TABLE 2
CANADIAN EXPORTS TO THE UNITED STATES BY PRIMARY INDUSTRY SOURCE AND STAGE OF FABRICATION, 1974

PRIMARY INDUSTRY SOURCE	Crude Materials	Manufactured: Fabricated Materials	Manufactured: End Products	Total
	(Millions of dollars)			
Agriculture	243	130	—	...
Fishing	121	23	—	...
Forestry	45	3,614	—	...
Mining				
Petroleum	3,408	460	—	...
Natural gas	494	—	—	...
Coal	46	46	—	...
Metal and non-metal mining	913	2,439	—	...
Electrical generation		175	—	...
Not allocated		289	8,123	8,412
Total	5,270	7,176	8,123	20,569

Mr. Burns: I would first like to note that the value of our forestry products exported as fabricated materials was over $3.6 billion. Of this, newsprint, lumber and other products of that kind made up about $2.4 billion. It is important to note that only a very small amount of our forestry products exports fell into the category of crude materials.

The Chairman: That would be logs?

Mr. Burns: That is right. The major Canadian export in the crude material category was, of course, crude petroleum which amounted to $3.4 billion in 1974. Mineral exports in crude material form was somewhat over $900 million, and natural gas exported amounted to a little under $500 million. I am referring to mineral exports as crude materials. I am identifying three major items running in the left-hand column: petroleum at $3.4 billion, natural gas at $500 million, and ores and concentrates at $900 million.

Senator Croll: What would "not allocated" mean?

Mr. Burns: These are end products. We were trying to show in this paper where we stood in the upgrading of resources in our primary industries. You cannot take end products very easily and break them up as to agricultural, forestry or metal origin. We have put them in a catch-all at the bottom. That is the $8 billion which is the total of our end products shipped to the United States. If one were able to do so, that $8 billion would be scattered a little in the third column up and down. For example, I assume that maple syrup in consumer packages would flow into the end products section of agriculture. That is one of the things we could do if we were able to put enough effort into breaking up that $8 billion. There are many products where it is not possible to say, "That is a product from the metal industry," or, "a product from the forestry industry." We cannot do that very easily or meaningfully.

The Chairman: If it were a children's toy made of wood with metal parts attached, you would not know where to put it?

Mr. Burns: That is right. I am not sure that it would be very helpful to anyone to know that X million dollars moved in that kind of category.

The Chairman: I am sure that other senators will be tempted, as I am, to interrupt you from time to time. Has any value judgment been made which could be broken down into statistical form which would indicate what percentage of column two—that is, the $7 billion in fabricated materials—could reasonably be moved into the end products column? You pointed out that a lot of things did not lend themselves to that. There is, I think, a feeling in Canada, especially when one hears speeches about Canadians being "hewers of wood and drawers of water," that we are simply exporting all of our raw materials without any processing being done in Canada. These figures indicate to me that we are doing much more fabricating than I had realized.

Have you anything of a statistical nature which would help the committee in making any judgment as to how much of that $7 billion could be added to the $8 billion?

Mr. Burns: I do want to tackle that question, Mr. Chairman, but if I may, I should like to do it systematically. We do have some ideas that I believe will be of assistance to the committee in judging the value of that figure.

The Chairman: My apology for the interjection. We will wait until you reach that point in your presentation.

Mr. Burns: Mr. Burns: One last point on this part of the presentation, to talk a little bit about technology, if you like, is that trade between two countries is, of course, nearly always to the benefit of the two trading partners. We presumably achieve a higher economic standard of living than if no trade occurred. It is important to examine the form in which these benefits are obtained and to secure the maximum benefit from the use of skilled labour, advanced technology, and research and development activities. Policies designed to achieve these objectives must take into account the fact that almost any product, in a modern complex industrial society such as Canada, involves a high degree of technology. Even the so-called crude materials are generally the end result of sophisticated production methods. Agriculture, mining and forestry, which are important primary industries in Canada, have achieved their high degree of efficiency largely because of very substantial investments of capital, a wide use of science and technology and a skilled and experienced labour force. Indeed, our historic specialization in a number of resource industries has had important implications for technological innovations. For example, because of the nature of our mineral resources, Canada has been very successful in developing geophysical instrumentation, advanced techniques of topographical mapping, as well as automated cartographic techniques, all of which have entered into our export trade.

Production in our forest industries is becoming highly mechanized and Canada is now known throughout the world for its advances in forest harvesting machinery. Several Canadian companies have specialized expertise in

the production of such forest equipment as harvesters, fellers, bunchers, forwarders and skidders, and these have been sold to countries all over the world, as well as to the United States. In the pulp industry, there has been an important Canadian innovation in a paper machine which, with a reduced capital investment, produces newsprint more rapidly and of a higher quality. Again, this machine has been successfully exported to the United States and other markets.

Our primary resource industries have also stimulated Canadian exports in other ways. Much of the machinery and equipment which we export is of a type that has been developed for use in our own specialized resource industries. For instance, there has been a significant trade for decades between Canada and the United States in farm machinery. Large increases have occurred recently in the export of drilling and mining machinery, forest harvesting machinery, as well as other industrial equipment.

In our promotion of Canadian exports, therefore, we recognize the contribution made by the various industrial sectors to Canadian economic development, and our policies take many forms. While we seek to obtain as much of the processing within Canada of the products of farms, forests, mines and fisheries as is economically possible, we also promote the export of unmanufactured products, such as wheat and other grains, because of their major impact on the Canadian economy. Measures such as the automotive agreement have substantially increased our exports of automotive goods, but we have also increased our exports of machinery and equipment used in the resource industries. In all of these programs, the test has been the contribution which can be made, on balance, to the national interest.

Senator Croll: What is PAIT?

Mr. Burns: It is a program of assistance to research and development which we have in the department.

Senator Croll: What do the initials stand for?

Mr. Burns: The Program for the Advancement of Industrial Technology.

The Chairman: The department makes grants under PAIT to industries across the country?

Mr. Burns: That is right, and that is true in respect of this paper machine and some of the other forest equipment that I make reference to in that part of my presentation.

If you prefer, Mr. Chairman, I could stop at this point, or I could go on to talk about the processing of resource exports.

The Chairman: If members of the committee agree, I think we should hear not only Mr. Burns out but also his assistants in any presentations they have to make, because many of the questions that are in our minds may be answered in the course of the presentations to us.

Perhaps you could finish your presentation, Mr. Burns, and then call upon any of your confrères who have presentations they wish to make.

Mr. Burns: Thank you, Mr. Chairman.

I should like to deal with a question that was raised at the last meeting—indeed, a question which you have raised today—and that is the question of the upgrading of our resource exports.

The processing of Canadian natural resources is a concept which is, broadly speaking, applicable both to the non-renewable resources in the mineral sector as well as to renewable resources in the forest, agriculture, or fisheries sectors.

In addressing this issue, it is useful to think of a continuum of stages of production, or processing chain, for any particular product. Most natural resources pass through a number of stages of production from the time they are extracted from the natural environment until the time they are incorporated in a manufactured product for consumption by the final user. Characteristically, the output of early stages of production in the processing chain may be rather easily identified with the natural resource from which it is derived. However, as one proceeds along the processing chain, the product tends to lose its identity with the natural resource, and often, in highly manufactured products, there is an almost complete loss of identity.

When we speak of further processing of natural resources prior to export, we are usually talking about moving along the processing chain beyond the crudest marketable form of product—sometimes several stages of production beyond the crudest form, but usually stopping short of the point where the resource-based product is incorporated in a highly manufactured end product.

If I may give a couple of examples, metallic minerals must be mined and concentrated to remove waste rock and smelted and refined to derive a metal of an acceptable level of purity. For many end uses, refined metal is used directly in various industrial processes. For example, refined zinc may be used directly for galvanizing purposes in the steel industry. For other end uses, refined metal must be semi-fabricated through rolling, drawing or extruding to produce products such as sheet, wire and tubing, which are then incorporated into a variety of manufactured products.

In copper processing, for example, we see that the output at every stage of production from copper concentrates through blister copper, refined copper, wire rod, bare wire, and even insulated wire, is readily identified with the copper resource base. However, on the incorporation of the wire in electronic equipment or other manufactures, the identity of the product is lost. A discussion of further processing in the copper sector, therefore, might realistically involve every stage of production up to and including insulated wire, but would be unlikely to include the manufactures which incorporate that wire.

One can use the same kind of example with respect to nickel or in the forest products area where the forest product moves from logs, to veneers, to plywood, or it could move from logs, to pulps, to various types of paper. Some of these products are used directly; others may be further treated to enter a variety of commercial and consumer end uses.

The category of the statistics that we talked about initially, "inedible crude materials", basically includes only the initial stage of production—the logs, the ores and concentrates. The category "inedible fabricated materials," on the other hand, includes almost all of the subsequent stages of production, including through to the production of insulated wire in the case of copper, and cut-to-size paper in the case of pulpwood. It can be seen, therefore, that the achievement of further processing prior to export in these sectors could result in a shift from the crude to the fabricated category, or, alternatively, a change of the product mix in the category of inedible fabricated materials.

For example, if pulp exports were further processed into kraft linerboard, that would result in a shift in the characteristics of our inedible fabricated materials, but would not involve a shift from the fabricated materials category over to the end products category.

Where processing prior to export is economic and internationally competitive, it can confer a number of benefits on the Canadian economy, including economic diversification, regional development, increased incomes and employment, strengthening of Canadian companies, and the attraction to Canada of the "footloose" managerial functions, such as research and development, design, and engineering. It is appropriate here to note that the early stages of production in most processing chains are relatively capital intensive, while the later stages of production are often relatively labour intensive.

Senator Connolly: Would you say that again?

Mr. Burns: I am saying that in the early stages of production the process is likely to be more capital intensive, but in the later stages to be relatively more labour intensive.

Senator Laird: Is that because of the engineering requirement?

Mr. Burns: Sometimes the scale of the operation. With a very large mine, for example, there are very large expenditures. The first concentrator in a large mining operation, for instance, is a very complicated and expensive piece of equipment.

While there are, therefore, often quite obvious benefits in terms of employment from the later stages of production, it would be wrong to attach too much importance to this single dimension of processing activity. The key criterion seems to us to be whether or not processing will result in a product which is internationally competitive.

In almost every resource industry sector, Canada's exports to the United States cover all the stages of production, from crude to fully processed products. Again drawing on the copper sector for illustrative purposes, in 1974 our exports to the United States in value terms were spread as follows: copper concentrates and scrap, 12 per cent; refined copper, 43 per cent; semi-fabricated shapes, 11 per cent; insulated wire and cable, 3 per cent. In the zinc sector, approximately 24 per cent went as concentrates and scrap, and 74 per cent as refined zinc metal. In pulp and paper, the breakdown was: pulp and waste paper, 40 per cent; papers and boards, mainly newsprint, 59 per cent; finished articles of paper, 1 per cent.

These examples suggest that there is probably scope for Canada to do better in the United States market in terms of processing. A significant proportion of our exports is in the crudest forms. However, it is interesting to note, for comparative purposes, that our processing performance vis-à-vis our exports to the United States is considerably better than for our trade with the European Community or Japan. In 1974, 98 per cent of Canadian copper exports to Japan were in the form of concentrates, and 89 per cent of our exports in the pulp and paper sector were in the form of pulp. The European Community imported 87 per cent of its zinc from Canada in the form of concentrates, and only 12 per cent in the form of refined zinc.

The economics of processing prior to export are influenced by a wide range of factors, such as scale of plant, length of production runs, wage rates and transportation costs. Work that has been done so far shows that the trade barriers maintained by our trading partners also influence the economics of processing. Non-tariff measures can be significant impediments, and we will be coming to testify on that problem at the next meeting of your committee. Tariffs can also be a significant constraint. This is particularly so when, as is often the case, free entry or very low rates of duty are applied to the products of the early stages of processing, and progressively higher rates of duty are applied to the products of the later stages. Such "tariff escalation" can have a significant impact because the effective rates of protection afforded to a foreign processor's "value added" is often two or three times as great as the nominal rates would imply.

Tariff escalation does affect our trade with the United States, although here again one finds that escalation in the United States' tariff schedule tends to be less pronounced than escalation in the European Community or in Japan. Again drawing on the copper example, and expressing specific rates of duty in their ad valorem equivalents to facilitate comparison, United States' tariff rates are 2.2 per cent for concentrates, 1.6 per cent for refined copper, which is a reverse escalation, if you like, and 8.5 per cent for single-strand insulated wire. The comparable tariff items in Japan are: free for concentrates, 6.2 per cent for refined copper, and 15 per cent for wire.

Senator Connolly: You are giving us a lot here, Mr. Burns. That, in effect, means that in this area the Japanese tariff provides more protection than the American tariff.

Mr. Burns: That is right, considerably more.

The Chairman: Three times.

Mr. Burns: Three times more on a nominal basis. On an effective basis it may be more than that.

Senator Connolly: There is more protection in the European Community, too, than in the United States.

Mr. Burns: Yes, that is right.

Senator Carter: If I understood you correctly, you said that the later processing is labour intensive, whereas the earlier processing is capital intensive. Is that right?

Mr. Burns: In relative terms.

Senator Carter: In Japan they have a labour shortage. It does not seem logical that they would put on a tariff protection, in view of their shortage of labour, which would increase their problem. What is the rationale behind that, or is there one? Perhaps that is not a fair question.

Senator Croll: A couple of million Japanese are out of work at this very moment, and have been for a year or two.

Senator Carter: Unemployment is not their major problem.

Senator Croll: It is a problem there now.

The Chairman: Honourable senators, where possible, unless the questions are to elucidate points in the presentation, I think we should really wait until the end of the presentation, if honourable senators agree, before we go into this. We could get into a long philosophical discussion about their policies relative to ours and those of other people. Perhaps you could make a note of this question and come back to it afterwards.

Senator Connolly: Lay the blame on me. I am the one responsible for all this.

Senator Croll: Mr. Chairman, the difficulty is that I was trying to follow Mr. Burns. He was indicating something with respect to zinc, that there was a particular problem. It would be nice at that point to say, "We think the reason is thus and so." I have no idea why these things happen in that fashion. If we could have some indication at that moment, it would give us a broader understanding. By the time we get to questions there always seems to be a shortage of time, and somebody has to go off in another direction.

The Chairman: It may be, Mr. Burns, that you and those who are here with you could elucidate to some extent as you go along. I do not want to cut off interjections for elucidation of a point that has been made, but if we start pursuing a general line of exploration we might run into difficulties. I think we should wait until the presentation is over.

Mr. Burns: Mr. Chairman, I should like to complete the introduction of the processing of resources with one other example, which is from the pulp and paper sector. Pulp enters both the United States and the European Community without being subject to duty, while kraft linerboard and fine paper enter the United States at 3 per cent and 6.2 per cent respectively, but enter the European Community at rates of 10.5 per cent and 12 per cent. That again demonstrates the comparative situation between Canada, the United States and our principal trading partners.

Those are some comments on the resource export field, really in response to earlier question that you put to us. There is only one other presentation we would like to make this afternoon.

The Chairman: Before we go on to the other presentation, could you let us have a copy of what you have just read from, so that we might have it photocopied and distributed?

Mr. Burns: Yes

The Chairman: I think the members of the committee would be interested in that last paper.

Senator Connolly: I think it was pretty well summarized by Mr. Burns. We have most of the material.

The Chairman: These three or four pages that he was reading from I would like to have copied and distributed later to the members. It would be worthwhile.

Senator Connolly: But not printed?

The Chairman: No, not printed. This is something you can leave with us?

Mr. Burns: Yes, senator.

The Chairman: It is only three or four pages, and we may have it during the course of the meeting.

Whom do you wish to call now?

Mr. Burns: Mrs. Mahoney has developed a chart presentation of the tariff profiles of Canada-United States. For purposes of comparison, she will draw some attention to the tariff profiles in the Community and Japan to give one a feeling for the barriers we are facing in relation to the United States, as compared to our other principal trading partners.

The Chairman: Thank you, Mr. Burns. Mrs. Mahoney, would you rather work at the chart or come up here?

Mrs. E. A. Mahoney, GATT Division, office of General Relations, Department of Industry, Trade and Commerce: I think it would be easier to stay near the chart, thank you.

The Chairman: Fine.

Mrs. Mahoney: First of all, Mr. Chairman, I would like to say that the data and tables I brought along today are ones that have been prepared in the context of our participation in the Tokyo Round of multilateral trade negotiations in Geneva.

As Mr. Burns has already alluded to, there are very significant problems because the national trade data that is produced by national statistical agencies is often not comparable internationally. So, with this in mind, these countries, on sheet one got together under the auspices of the General Agreement on Tariffs and Trade and produced a complete set of tariffs and trade data, which would be directly comparable, one country to the other.

PARTICIPANTS IN THE GATT TARIFF STUDY

CANADA	SWEDEN	NEW ZEALAND
JAPAN	SWITZERLAND	EEC
		(UNITED KING-
AUSTRIA	NORWAY	DOM)
FINLAND	AUSTRALIA	(DENMARK)

These are the countries that are involved. I will draw your attention to the European Economic Community first.

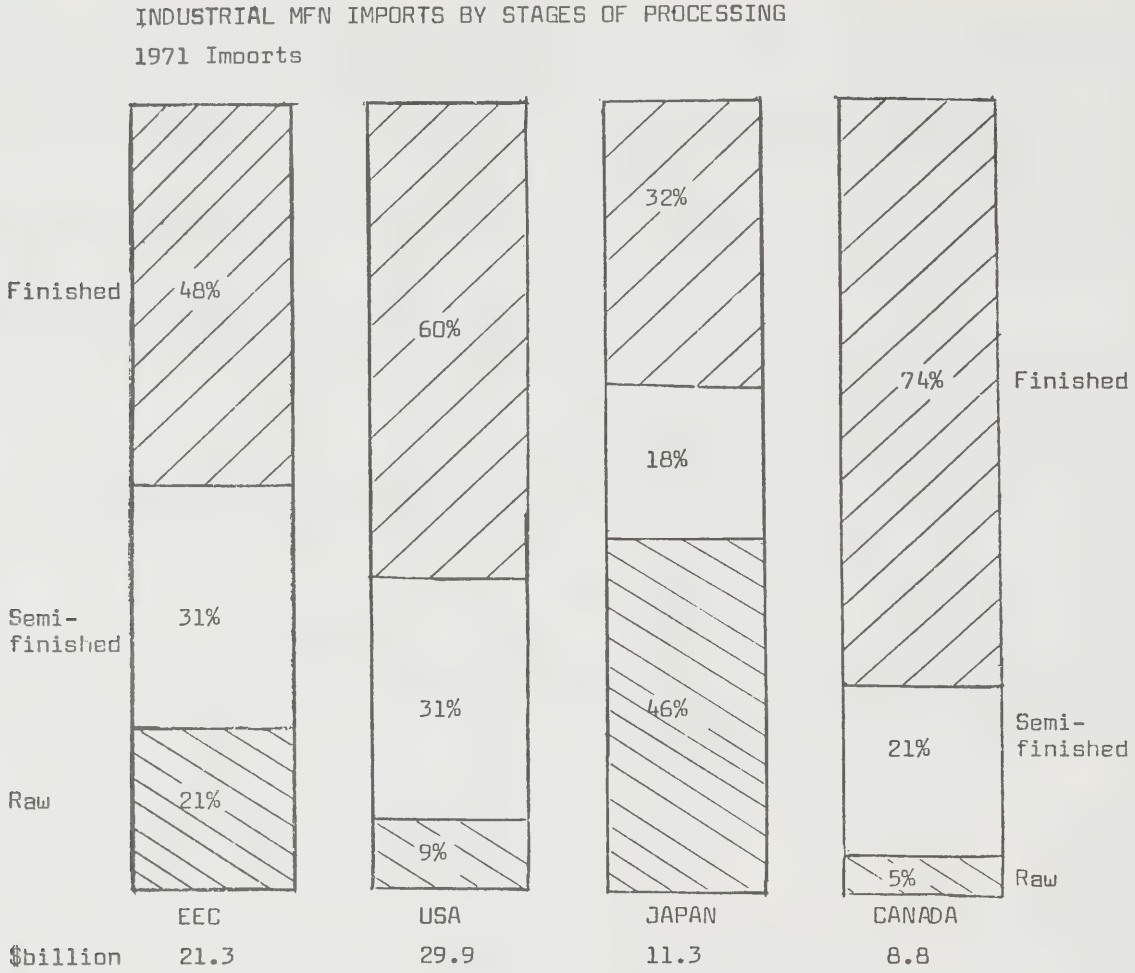
With respect to the European Economic Community, I am sure you are all aware that the tariff schedule of the Community is the Common External Tariff. So, products entering one of the member countries enter at the same rate of duty as they would any of the other members, provided they are from outside of the Common Market.

In light of the problems we had in co-ordinating this data, we do not have as up-to-date figures as have been presented for the straight Canada-U.S. trade.

One of the items that very considerably affects the particular breakout, in terms of a tariff structure between individual countries, is the mix between raw materials, semi-manufactured products and finished products.

In this case, the breakout is internationally agreed, within the context of the General Agreement on Tariffs and Trade. I would point out that there is some discrepancy between this and the data that is used in Canada. There is much more in the finished manufactures end than there is in the ordinary Canadian presentation of statistics.

Senator Connolly: What is this sheet we are looking at?



Note: Coal, petroleum and natural gas excluded
Canada/USA Auto-Pact imports excluded

Mrs. Mahoney: "Industrial m.f.n." means imports of industrial goods under most favoured nation tariff rates.

Senator Connolly: Imports into Canada?

Mrs. Mahoney: Imports into the EEC, U.S.A., Japan and Canada.

The Chairman: From all parts of the world?

Mrs. Mahoney: From all parts of the world, yes. What I wanted to show here was the breakout between raw materials, semi-manufactured products and finished products, because this greatly affects the way that the tariff structure operates and how much you have entering a country duty free.

If we look at the U.S.A. and Canada, there is some degree of similarity in that very little of their industrial imports are entering in the form of raw materials.

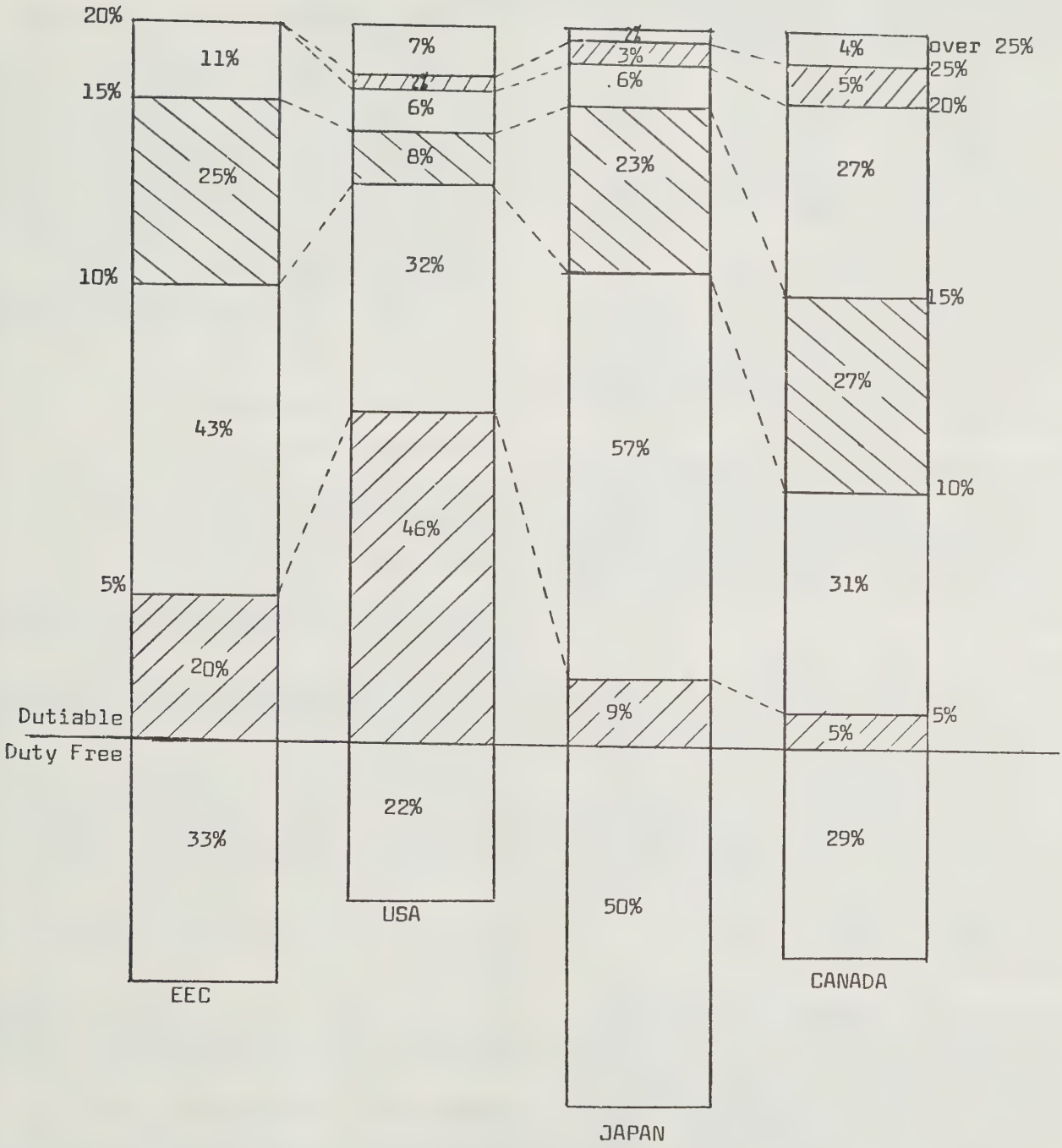
Senator Croll: Is there a percentage number there? I cannot see it.

Mrs. Mahoney: Yes, it says 5 per cent for Canada and 9 per cent for the U.S.A. I have excluded coal, crude petroleum and natural gas because they cause great aberrations in the various trade structures. They are dutiable into some countries and duty free into others.

By comparison to Canada and the U.S.A., you can see that nearly half of Japan's industrial imports are in the form of raw materials.

These facts are then reflected in this second table, which is the same base of industrial m.f.n. imports, but I have split it into duty ranges.

INDUSTRIAL IMPORTS BY DUTY RANGE



Note: Coal, petroleum and natural gas excluded
Canada/USA Auto-Pact imports excluded

Below the line, it shows the proportion of industrial imports that enter duty free. You can see that in the case of Japan and the Community there is some distinct correlation between the percentage entering as raw materials and the percentage entering duty free. This is not the case for either the United States or Canada, where a very small percentage of imports are raw materials. However, a fairly significant proportion enter duty free. This means that some semi-manufactured or finished products are entering these two markets duty free.

Senator Connolly: "These two markets" being Canada and the United States?

Mrs. Mahoney: Canada and the United States. The Auto Pact is excluded because, again, that causes very large aberrations when you want to compare the situations between the four countries.

Senator Croll: Mr. Chairman, just to show I am not asleep, do you mind if I ask a question?

The Chairman: Go ahead.

Senator Croll: You have excluded coal, petroleum, natural gas and the Auto Pact. To me, they seem vitally important. You say they cause some aberrations. I do not follow you on that.

Mrs. Mahoney: The presentation I am giving is to show you how the tariff structures compare between these four countries. I n most instances, coal, petroleum and natural gas enter duty free. However, in the case of Japan, there is an average rate of duty of 15 per cent on petroleum which is something like a tax rather than an import duty. They are not protecting domestic production because they have none. This might be regarded as being in lieu of a federal sales tax.

Senator Connolly: It is for revenue.

Mrs. Mahoney: That is right. Therefore, if you include crude petroleum into Japan, you get a huge element of the rate of duty, in the range of 10 to 15 per cent, which is crude petroleum and is not a tariff that is there for the protection of domestic production.

Senator Croll: What difference does it make to me, whether it is a tariff or a tax, because I pay the 12 per cent, call it what you like?

Mrs. Mahoney: In general, when you have a tariff, it is to protect domestic production.

Senator Croll: Yes, I realize that.

Mr. Burns: Mr. Chairman, could I interject for a moment? We have developed this for a particular purpose, which is to present a picture of what we are trying to do in the multilateral trade negotiations. It shows quite clearly the Canada-U.S. picture, which is why we brought it this afternoon. In the multilateral trade negotiations, it is doubtful if the energy materials will really figure very prominently in the negotiations. Therefore, they were excluded. They were excluded as well for the reason that the elements that characterize that trade are quite different from the elements that characterize most other trade that occurs.

Senator Croll: I stay confused. Go ahead.

Senator Connolly: It is abstraction.

Mrs. Mahoney: Looking now above this dark line, I have divided . . .

Senator Connolly: This is the dark line on the bottom?

Mrs. Mahoney: Yes, this one that goes straight across. I have divided the dutiable imports by range of duty. The first block is the value of imports that are subject to rates of duty of 5 per cent or less, then 5 per cent to 10 per cent, 10 per cent to 15 per cent, 15 per cent to 20 per cent, 20 per cent to 25 per cent, and in these three cases (for Japan, U.S.A. and Canada) the last block is over 25 per cent. Something that emerges here is the difference between Canada and the United States with respect to the range of duty between zero and 5 per cent. A very large proportion of U.S. imports enter in this range. They are not all semi-processed or semi-manufactured products. Aircraft are in there, elevators—quite a lot of machinery—finished manufactured products either in terms of the definition used here or in terms of the definitions that have already been discussed.

Senator Croll: Are you saying that they protect more?

The Chairman: No, less.

Senator Croll: That is exactly what you saying.

The Chairman: Yes, much less.

Senator Croll: All right.

Mrs. Mahoney: This is an overall picture. Canada has very little entering with rates of duty of 5 per cent or less. Then, you will see there are fairly even blocks up to 20 per cent.

In the European Economic Community there is no tariff item on the industrial side, where the rate of duty is over 25 per cent. There are some in the U.S., a little less in Japan and some in Canada.

I should point out that this represents a presentation of the actual trade. As you know, the higher the rate of duty, the less likely you are to have imports. Therefore, by using an analysis like this, you tend to underestimate the importance or potential importance of items which have a very high rate of duty.

Senator Croll: I am to assume that the Smoot-Hawley tariff, though it was repealed, has been replaced by something else?

Mr. Burns: The Smoot-Hawley tariff has been chopped away at on successive occasions, beginning in 1935 and continuing on to this year, but it has not totally disappeared.

Senator Croll: It is not very much alive there.

Mr. Burns: Except to the extent that the first column, above the dark line shows rates of duty between zero and 5 per cent and from 5 per cent to 10 per cent, and represents in terms of U.S. imports 75 per cent of the total imports, or something of that order. That is a moderate tariff.

Senator Connolly: Mr. Chairman, is there any way in which we can include these large sheets as part of our record?

The Chairman: If you would not mind leaving it to the Chair, I will see that the sheets are included in the transcript unless there is some insurmountable problem. They will also be distributed to the members of the committee.

INDUSTRIAL MEN IMPORTS—FINISHED MANUFACTURES

	EEC		USA		JAPAN		CANADA	
TOTAL	10,115		18,020		4,096		6,527	
Duty Free	340	(3.3%)	997	(5.5%)	154	(3.8%)	1,682	(25.8%)
0.1-5.0	1,834	(18.1%)	8,321	(46.2%)	29	(0.7%)	88	(1.3%)
5.1-10.0	4,614	(45.4%)	5,106	(28.3%)	2,189	(53.4%)	1,589	(24.3%)
10.1-15.0	2,102	(20.7%)	1,355	(7.5%)	1,090	(26.6%)	1,213	(18.6%)
15.1-20.0	1,221	(12.0%)	799	(4.4%)	312	(7.6%)	1,447	(22.2%)
20.1-25.0	45	(0.4%)	335	(1.9%)	208	(5.1%)	299	(4.6%)
Over 25	—	—	1,107	(6.1%)	114	(2.8%)	109	(1.7%)

DUTY FREE FINISHED MANUFACTURES

EEC	340	$ million
USA	997	
Japan	154	
	1,491	less than 1,682 Canada

NOTE: Auto-pact imports *excluded*

Mrs. Mahoney: Turning now to the third sheet, I have removed the data on semi-manufactured products and dealt with finished manufactures only. By way of explanation, this does include paper; it does include all wire and cable, some of which were identified as not being included in the statistics Canada breakout of "end products" referred to earlier by Mr. Burns. It also includes all types of machinery and transport equipment, and textile products, luggage, clocks and watches and a number of consumer items like that. Here I have given the total in terms of imports in the E.E.C., the U.S.A., Japan and Canada, and then I have shown, in terms of value, the amount that enters duty free. It is very small in terms of percentages for all of these three countries [U.S.A., E.E.C and Japan] but, in the case of Canada over a quarter of our imports of finished manufactures enter duty free, and this excludes the Auto Pact. If the Auto Pact were included, it would be about 60 per cent. I have then broken out the numbers in terms of duty ranges. First we have 0.1 to 5 per cent, then 5.1 to 10, and so on up to 25, and then over 25. In the case of the United States the largest block is in the range of 0.1 to 5, where almost half of their imports of finished manufactured products enter.

Senator Connolly: That was reflected in that area on sheet No. 2, was it not?

Mrs. Mahoney: Except that now I am talking only about finished manufactures. On sheet number two it was semi-manufactured and finished manufactures.

In the case of the Community almost half of the imports of finished products enter with rates of duty between 5.1 and 10, and that is also the case with respect to Japan. But for Canada the situation is quite different. As I said before, we have one-quarter entering duty free; then another quarter entering between 5 and 10; and then yet another quarter entering between 15 and 20. This very much reflects the sort of specificity of the Canadian tariff, and if we look at the items which are duty free in this area of finished manufactures and add together in dollar terms imports into the EEC, the U.S.A. and Japan, this number, $1,491 million is lower in absolute terms than the amount of finished manufactures entering Canada duty free, i.e. dollars 1,682 million.

Senator Croll: Would you elaborate on that, please?

Mrs. Mahoney: If we take for each of these three importers, the EEC, the U.S.A. and Japan, their total amount of finished manufactures which enter duty free, we find that this number of 1.5 billion is less than the imports of finished manufactures which enter Canada duty free, which amounts to 1.7 billion.

Senator Carter: Is that dollars you are talking about now?

Mrs. Mahoney: Straight dollars, yes. I would like to emphasize that the Auto Pact imports are excluded from that.

Senator McElman: From the U.S., too?

Mrs. Mahoney: From the United States as well, yes. The figures shown on sheet number three do represent a very large proportion of trade which enters Canada as a result of the special provisions in the Canadian tariff which allow for the importation duty free of products which are not made in Canada. So that the protection, or lack of it, offered by this particular situation would change immediately if these types of products were manufactured in Canada, because they would then be unable to be imported duty free.

Senator Croll: Before you turn to the next sheet, did I hear you say that the top figure on sheet 3, for articles which are entering Canada duty free, included textiles?

Mrs. Mahoney: No, senator. I said that "finished manufacturers" includes textiles, but I did not say that this top number included textiles.

Mr. Burns: Textiles is quite a bit down the scale, Senator Croll.

Senator Croll: Would you indicate the percentage for textiles, then, if you have it in your head?

Mrs. Mahoney: Do you mean, of what textiles represents?

Senator Croll: Yes.

Mrs. Mahoney: I would say, without being an absolute expert upon where textiles are, that just about all the clothing products would be in the ranges above 15. Some of the fabrics may well be below those ranges. Yarns, of course, would not be included here at all because this table deals with finished manufactures only. This situation would generally be the case for all four of these importers, the EEC, the U.S.A., Japan and Canada. Textiles and clothing would tend to be at the higher tariff ranges for every single one of them.

Senator Carter: Are you saying that the three countries, the EEC, the U.S.A. and Japan, all combined, import only $1.4 billion duty free—less than a billion and a half dollars?

Mrs. Mahoney: Of finished manufactures, yes.

Senator Carter: All three combined are less than a billion and a half dollars.

Senator Connolly: In other words, they have large domestic industries.

Mr. Burns: They are protecting a much broader range of production than we are. As Mrs. Mahoney said, if someone in Canada begins to produce a particular manufactured product, it will fall out of one of the duty free categories and into one of the categories where you would have to pay duty.

The Chairman: The reason for that, which is the point you are making but the other side of the coin, is that the EEC, Japan and the U.S.A. all have broader bases: they manufacture almost one of every thing. Thus, not many things would fall into duty free categories. So the principles being applied by Canada are not necessarily different.

Senator Croll: Oh yes they are!

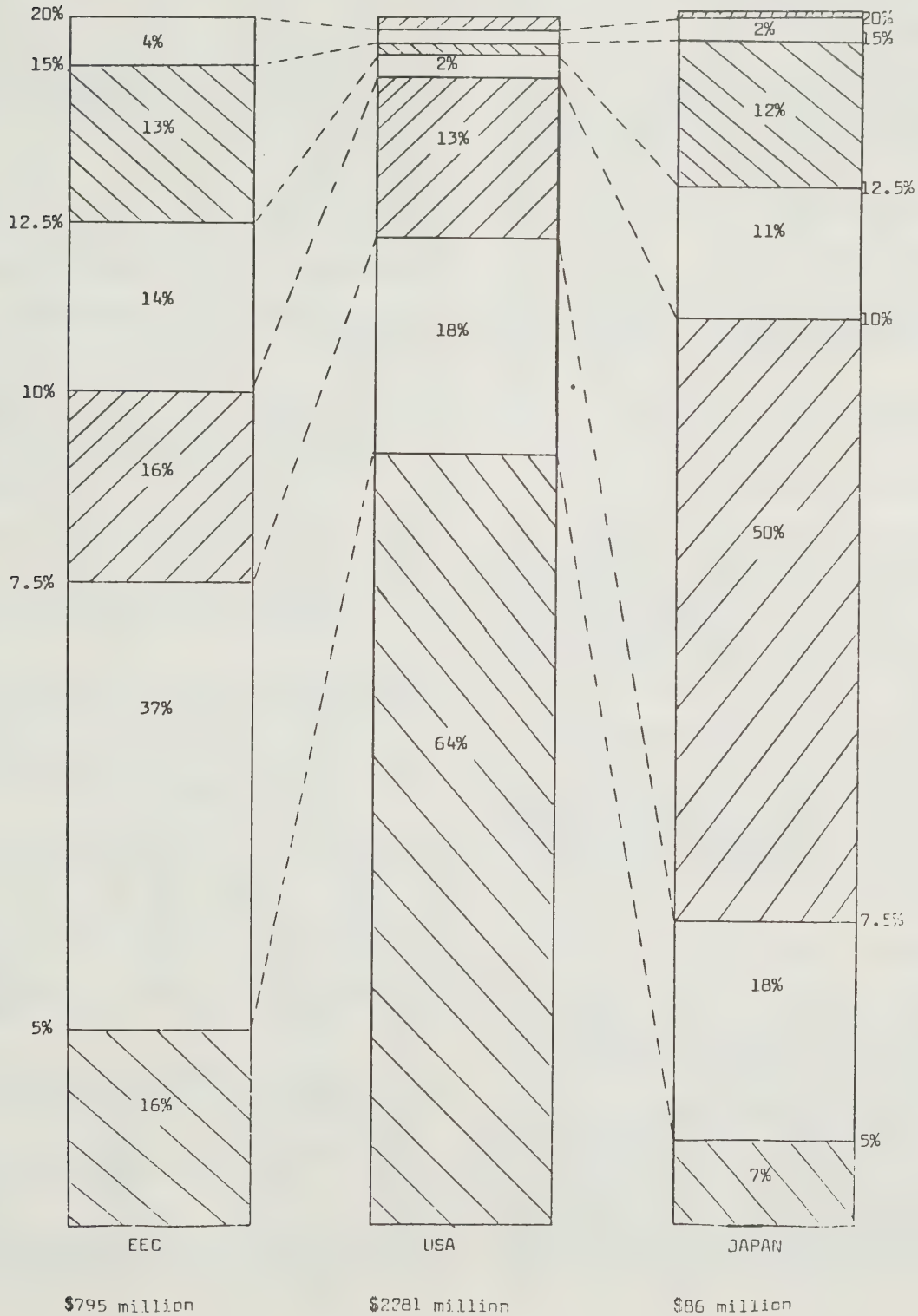
Mr. Burns: Well, Mr. Chairman, if you want to have a really detailed discussion of the Canadian Tariff, we should perhaps ask some of my colleagues from the Department of Finance. But if I could hazard a comment on this, the Canadian Tariff is a more complex instrument, I think, than the tariffs of the other three areas we are discussing, to the extent that it is more flexible, with so many of these items being classified either "made in Canada" or "not made in Canada". This is a feature that does not often appear in the other tariffs we are talking about, so Senator Croll is right when he says we do not use entirely the same system that other countries use.

The Chairman: Because they manufacture one of everything, and we do not; but if you apply the same criteria . . .

Mr. Burns: —then all the "not made in Canada" would fall out of our tariff and we would lose much of that $1.7 billion which would be distributed in the dutiable tariff ranges.

Mrs. Mahoney: Having looked at an across-the-board picture of all imports from all sources, I would like to switch now to sheet No. 4, in order to look at imports from Canada into the U.S.A., the EEC and Japan . . .

MFN DUTIABLE INDUSTRIAL IMPORTS FROM CANADA
SEMI-MANUFACTURES AND FINISHED PRODUCTS



Again I am talking about dutiable semi-finished and finished manufactures of industrial products. The U.S.A. is, of course, the largest market, with $2.3 billion, compared to $.8 billion into the Community, and $.09 billion into Japan.

The Chairman: Excuse me. Is this with or without the Auto Pact?

Mrs. Mahoney: Without the Auto Pact the table concerns dutiable imports only. Imports under the Auto Pact are duty free, and therefore would not figure in this table.

Senator Croll: Did you tell the reporter that that is sheet No. 4? You have it for the record?

Mrs. Mahoney: Yes.

Senator Croll: Go up and down and explain each item, because somebody else is going to read this who was not here. We will be reading it, too, when we look at it. Start at the U.S.A.

Senator Connolly: Don't let us upset you. You are doing a great job.

Senator Croll: She is enjoying this.

Mrs. Mahoney: If we look first at the United States, you will see that I have broken down this complete block, which represents all of our exports to the U.S.A. which are dutiable into the United States, and which are either semi-finished or finished manufactures. I have broken it into duty blocks, which are quite difficult to see, at the top end. This first block is rates from 0.1 to 5 per cent; the next block is from 5 to 7.5; then from 7.6 to 10; 10 to 12.5; to 15; to 20; and over 20.

As you can see, in the case of the United States, 64 per cent of Canadian exports of these types of products enter with rates of duty between 0.1 and 5 per cent. A further 18 per cent enter with rates of duty between 5 and 7.5 per cent. Then there are 13 per cent between 7.5 and 10 per cent. That is to say that if you add all these up, 85 per cent of our dutiable industrial exports of semi-finished and finished manufactured products enter with rates of duty of 10 per cent or less.

The Chairman: You meant 95 per cent, I believe.

Mrs. Mahoney: You are right, 95 per cent. I am sorry. This is quite a different picture from the one that is presented for the EEC and Japan, and reflects very much the type of situation that Mr. Burns was explaining earlier with respect to tariff escalation.

In the EEC 16 per cent of our dutiable semi-finished and finished product exports to the Community enter with rates of duty of up to 5 per cent. Then there is, a further 37 per cent, with rates of duty up to 7.5, then 16 per cent with rates of duty up to 10, then 14 per cent with rates of duty up to 12.5, a further 13 per cent up to 15, and the remaining 4 per cent are subject to duty between 15 and 20 per cent. There are no significant Canadian exports to the Community subject to rates of duty over 20 per cent.

In the case of Japan even less enters in this lower range. There is only 7 per cent in the range up to 5 per cent; then 18 per cent up to 7.5; and then the bulk of our exports enter with rates of duty between 7.5 and 10, then 11% up to 12.5, 12% up to 15, and I think it is two and one per cent respectively for the top two ranges.

Senator Connolly: You say that 64 per cent of the semi-finished and finished products exported by Canada to the United States attract a duty of 5 per cent or less. Do other countries of the world exporting to the United States enjoy that same rate on that same class of goods?

Mrs. Mahoney: Yes.

Senator Connolly: This is not a special most-favoured-nation arrangement?

Mrs. Mahoney: Well, it is most-favoured-nation.

Senator Connolly: It is not something that is only available to Canada?

Mrs. Mahoney: This rate of duty is available to everybody except the countries to whom the United States does not extent most-favoured-nation treatment, like the USSR, the People's Republic of China,—I am not an expert on these matters, but certainly those types of countries. So this would include all the major western industrialized countries, as well as most of the developing countries.

Senator Croll: There is nothing at all of a special nature between our two countries in that category?

Mrs. Mahoney: Well, nothing that relates to tariff treatment. There may be an element of special relationship as a result of other factors.

Senator Croll: Outside of the automobile arrangement, give me an example of the kind of thing you mean.

Mrs. Mahoney: Trade within multinational enterprises would be an example of a special arrangement, but this trade would get ordinary tariff treatment.

The Chairman: I think, for general purposes, Senator Croll, it would be an offence against the GATT for the United States to have a special rate for Canada that was different from the rates for the rest of the world. These rates apply to everybody, unless you have a free trade agreement or a special agreement such as the Auto Pact.

Senator Croll: Yes. I have seen offences against GATT interpreted in various ways by the United States from time to time, and by us, too.

The Chairman: We will undoubtedly get into that when we come to the question of tariff barriers, but I think, as a general principle, that is the situation.

Senator McNamara: With regard to the EEC tariffs, how are the import levies they assess on grain, for example?

Mr. Burns: Mrs. Mahoney very carefully talked about these charts being for the industrial sector only. We have excluded the agricultural sector from this presentation. It

is too complicated, really, to deal with the agricultural sector for the Community, because of the variations in their levy system.

Senator McNamara: It is really a system of disguised tariffs, is it not?

Mr. Burns: They are not very precise tariffs, as you know.

The Chairman: We are really dealing here with semi-finished and finished products.

Mrs. Mahoney: To explain this, I might give you some examples of what is included in this huge 64 per cent. As I mentioned before, it is not necessarily semi-finished products at all. Aircraft are included in here, as are a number of automotive parts that are not in the automotive agreement, such as after-market parts. So are elevators, and quite a lot of different types of machinery, as well as some semi-manufactured metal products.

The Chairman: Could some of the items such as Mr. Burns mentioned, that we have developed a specialty in Canada for, such as mining machinery and logging equipment, fall into that?

Mrs. Mahoney: I would not say they would all fall into it, but there is a lot of machinery in this huge block with rates 0.1 and 5%. This very large block for Japan . . .

Senator Connolly: That is the 50 per cent block of under 10 per cent?

Mrs. Mahoneay: I am sorry. The 50 per cent block which is subject to duties of between 7.5 per cent and 10 per cent is primarily made up of semi-manufactured products. It includes, for example, such products as semi-manufactured products of copper or some paper products that are not finished manufactures.

Mr. Burns: Mr. Chairman, may I ask Mrs. Mahoney a question? That is, of course, the relationship of Canadian trade to each of these countries, but the trade of someone else in each of those categories would look different, depending on the structure of their particular exports?

INDUSTRIAL MFN IMPORTS

Semi and Finished Manufactures

	USA	EEC	JPN	CDA
0.1-5.0%	45%	18%	4%	4%
5.1-7.5%	18%	28%	26%	22%
7.6-10.0%	14%	16%	33%	9%
10.1-12.5%	5%	13%	6%	4%
Over 12.5%	18%	25%	31%	61%
Total Dutiable $ million	22,807	13,705	5,336	6,194

INDUSTRIAL MFN IMPORTS FROM CANADA

Semi and Finished Manufactures Dutiable

	USA		EEC		JPN	
0.1-5.0%	64%		16%		7%	
5.1-7.5%	18%		37%		18%	
7.6-10.0%	13%		16%		50%	
10.1-12.5%	2%	18%	14%	47%	11%	65%
Over 12.5%	3%		17%		14%	
Total Dutiable $ million	2,281		795		98	

Mrs. Mahoney: Yes.

This is sheet number 5 and it is very much a numbers presentation of the sort of material that I used on the previous pages. You can see here the big difference between the amount of trade entering the U.S.A. and the EEC in comparison to Japan and to Canada at rates of duty of 0.1 per cent to five per cent.

Senator Connolly: Are you dealing now with imports into the various countries listed, U.S.A., EEC, Japan and Canada, of semi-finished manufactures, for which the figures are percentages?

Mrs. Mahoney: Yes. If I turn back very briefly to page 2, you will notice here that I have a sort of . . .

Senator Connolly: —schematic presentation.

Mrs. Mahoney: Yes, a diagram presentation, showing the way imports are divided into the various ranges of duty. The top table on sheet 5 is merely the numerical presentation of almost the same data. Similarly, the second table on sheet 5 is a numerical presentation of the data shown on sheet 4, so I think we have already looked at those numbers.

DUTIABLE TARIFF ITEMS OF EXPORT INTEREST TO CANADA

	1971 $million imports from Canada
1) IN EEC	
Metals and metal products	236.5
Wood and wood products	111.3
Transport equipment	81.6
Paper and paper products	93.2
Non-electric machinery	78.3
Chemicals	76.0
TOTAL: All industrial categories	808.3

2) IN USA	1973
Metals and metal products	977.3
Transport equipment	456.8
Machinery and mechanical equipment	456.1
Electrical machinery	248.7
Rubber and plastics	119.0
Chemicals	113.5
Pulp and paper and products	106.6
Wood products	80.4
TOTAL: All industrial categories	2,751.8

Mrs. Mahoney: I had previously given you the overall trade, without particular reference to particular product categories. We have looked at our trade with these three countries, the Community, the U.S.A. and Japan, and have picked out the product categories that represent the greatest proportion in terms of dutiable imports from Canada.

Senator Connolly: This is sheet 6.

Mrs. Mahoney: This is shown on sheet 6. I will stress the words "dutiable", because we have excluded all the duty-free imports, which would be primarily in the area of raw materials. This sheet shows that into the EEC the largest

product category is metal and metal products, which in 1971 accounted for $236 million worth of dutiable imports from Canada. Then on through wood and wood products, which amounted to $111 million; transportation equipment, which includes aircraft, $82 million; pulp and paper products, $93 million; non-electric machinery, $78 million; and chemicals, $76 million. The total for all industrial categories was $808 million.

Senator Lafond: Do the figures relate to the enlarged EEC, including the United Kingdom?

Mrs. Mahoney: Yes. This is assuming that in 1971 the EEC had nine member states, so the United Kingdom is included here. It is also assuming that the United Kingdom were imposing fully the common external tariff of the Community.

The Chairman: Why would you be using 1971 figures still?

Mrs. Mahoney: Because in the international community and GATT it is very difficult to get everyone to submit their data at the same time and 1971 is the latest we have avaiblable for the EEC.

The Chairman: For our purposes, these figures are the enlarged EEC?

Mrs. Mahoney: That is right.

Into the U.S.A., there is quite a broad similarity with the EEC in the order in which various product categories emerge. These imports are for 1973, as we have more up-to-date figures for the U.S.A. First, again, metal and metal products, accounting for $977 million; they are followed by transportation equipment, of $456.8 million. That excludes the Auto Pact and a majority of it is, as a matter of fact, aircraft and parts. We then have machinery and mechanical equipment, at $456 million; electrical machinery, at $249 million; rubber and plastic products at $119 million; chemicals in the amount of $114 million; pulp and paper products, $107 million and wood products at $80 million. The total for all industrial categories was $2.8 billion in 1973.

Mr. Burns: It shows the importance, Mr. Chairman, as far as the last two categories are concerned, of the duty-free elements in our trade in forest products with the United States. When one takes wood pulp and newsprint on the pulp and paper side and lumber on the wood products side, one is left with the residual, really, of dutiable items of $106 million against $3-point-something billion which we are selling.

The Chairman: That would be the total?

Mr. Burns: Yes, sir.

The Chairman: So that they take 90 per cent of our exports in the non-dutiable category.

Mr. Burns: That is correct.

The Chairman: I am very conscious of that, being from British Columbia.

Mr. Burns: I was aware of that, Mr. Chairman.

3) In Japan	$million	%with rates 5% or below
Pulp, Paper & Paper Products	97.0	86.3%
Ores, Metals & Metal Products	74.5	37.4%
Non-electric machinery	4.3	13.2%
Total all industrial categories	185.7	39.4%

Mrs. Mahoney: My last table on sheet 7 is very simple and shows much the same presentation for Japan. Because of the nature of our trade with Japan, I have brkoken the categories down so that we have much, much smaller amounts of trade at the bottom. These are our dutiable exports to Japan. The largest product category is pulp, paper and paper products, which in 1971 amounted to $97 million; then ores, metal and metal products, at $74.5 million; and non-electric machinery was $4.3 million. The total for all industrial categories was $186 million. That is a complementary table for Japan to the ones I had on sheet 6 for the product categories of major importance for Canadian exporters into the EEC and the United States.

Senator Croll: And the other side?

Mrs. Mahoney: This is just the percentage of the total value which entered with rates of five per cent or below. In the case of pulp and paper products, 86 per cent of this $97 million was subject to rates of duty at five per cent or below; 37.4 per cent in the category of ores, metal and metal products was subject to rates of duty of five per cent or below; and 13.2 per cent in the non-electric machinery category. For all industrial categories 39.4.% was subject to rates of duty of 5% and below.

Senator Croll: Mr. Chairman, that was an excellent presentation.

Hon. Senators: Hear, hear.

The Chairman: All we need is three or four days to digest it! Mrs. Mahoney, thank you very much; that is most fascinating.

I don't know where best to start on that volume of information you have given us, Mr. Burns. Fortunately, however, I do not have to commence, as Senator Carter has kindly agreed to do that.

Senator Carter: I don't even know where to commence myself. I had a starting point when I came in, but that has gone long ago. Perhaps I will return to the five categories of commodities with which you started at page 2 of your presentation, Mr. Burns. About 30 per cent of Canadian exports are subject to U.S. tariffs. The rest, apparently, are duty free. From what Mrs. Mahoney said, about 70 per cent are duty free. Regarding the 30 per cent that are dutiable, is that concentrated more in any one category than in others? In these inedible categories—crude materials, fabricated materials, end products—do they account mainly for the 30 per cent?

Mr. Burns: Mr. Chairman, to reply to the question, all the way through these fixe categories there are mixtures of both dutiable and non-dutiable products. Let me give some examples. Live animals—certainly all the beef cattle moving—are dutiable. In food, feed, beverages and tobacco, of course, all the alcoholic beverages and tobacco are dutiable. That is the case with all the processed food products. Inedible crude materials, I suspect, are nearly all duty free. Some inedible fabricated materials will be duty free. I mentioned a moment ago that newsprint, pulp, all the ordinary lumber items are duty free into the United States.

There will be a larger proportion of dutiable items in the last category (end products) than in any of the other three.

Senator Carter: So the end products category, the bottom one, which came to 34 per cent, would bear the bulk of the dutiable tariff?

Mr. Burns: That is correct.

Senator Carter: Our trade with the United States declined in volume by 4 per cent in 1974 and 8 per cent in 1975. How much bearing did tariff have on that decline in volume?

Mr. Burns: Mr. Chairman, since there have been really no changes in U.S. tariffs of any significance in that period, I do not think one can attribute reduction in the volume to any change in the tariff. Indeed, I think it is accepted widely that the reduction in the volume of our exports is a function of the reduction of economic activity in the United States which began in the latter months of 1973. It is really a slowdown of their demand for our products and has no relation to any increased barriers to trade.

Senator Carter: That would be true of the escalating nature of their tariffs?

Mr. Burns: The escalating rate of their tariff runs from crude materials to the more processed goods. Again, that is a long-standing problem and one that has not changed in the period for which we have put figures before you.

Senator Carter: I did not quite catch what Mrs. Mahoney said about the escalating tariffs. You made some reference to it yourself. Just to clarify a point, could you say what degree of escalation in U.S. tariff rates can be observed in these various categories?

Mr. Burns: If I might go back to the two or three examples I mentioned, in the copper area the U.S. tariff for ores and concentrates is 2.2 per cent. Their rate for the next stage of production, which is refined copper, is curiously lower than that—1.6 per cent. Then, when we move to insulated wire, which is a processed product of copper, we have a tariff of 8.5 per cent. If we take another example, from the pulp and paper sector, pulp enters the United States duty free, kraft linerboard enters at 3 per cent, and there is a variety of rates applying to fine papers but one of the principal items is 6.2 per cent. So in that category you have quite a classic escalation in terms of processing; pulp, free; kraft linerboard, 3 per cent; fine paper, 6.2 per cent.

Senator Connolly: I wonder if there is any validity in the statement that in the case of a raw material which may be in fairly short supply or not generally available in the United States, their tariff policy would tend to reduce the rate to attract the product to their market. Do we do that also?

Mr. Burns: Yes, sir.

Senator Connolly: What do we do it with?

Mr. Burns: There are a series of raw materials in the Canadian tariff that are duty free. Natural rubber is one that I am aware of.

Senator Connolly: We do not import much of that now?

Mr. Burns: No, but we import some. Phosphate rock is another.

Mr. Kelly: Also hardwood lumber, that we are short of.

The Chairman: Would it be wrong to say that most nations, including Canada and the United States, have basically no tariff against raw materials and add tariff in direct proportion to the value added to goods?

Mr. Burns: If one can draw a general principle from any tariff, that would be the case.

Senator Connolly: There is this further point, that in the case of raw materials that are not indigenous to the country, the tendency is to set the tariff low to attract those products.

The Chairman: The point I was trying to make, senator, was that there is no tariff on raw materials, and therefore there is no tariff to reduce the raw material you are short of. It is possibly a variation on your point, but generally speaking most countries, including the United States . . .

Senator Connolly: I think that is a matter of fact. I think you are right.

The Chairman: There is nothing much to reduce your tariff from if it is raw material that you are short of.

Senator Connolly: On the examples that Mr. Burns gave, that after a certain stage of processing there was an actual reduction in the tariff, I would think that was because they wanted as much of that as they could get in their market for further processing.

Mr. Burns: Regarding the copper tariff example I gave you, where there is a statutory tariff of 2.2 per cent on ores and concentrates, that is traditionally waived by the United States. If you look at it in factual terms, ores and concentrates of copper enter, as a matter of historic fact, nearly always free of duty. Refined copper has this rather small duty of 1.6 per cent, and fabricated products have a higher rate of duty.

The Chairman: So the anomaly you mentioned is not really an anomaly at all?

Mr. Burns: It is a statutory anomaly; it is not a real anomaly.

Mr. C. J. Kelly, Assistant Director, U.S.A. Division, Western Hemisphere Bureau, Department of Industry, Trade and Commerce: Mr. Chairman, what happens is that Congress introduces a bill which suspends the tariff for a definite period of time. This occurs regularly with copper ores and concentrates.

Senator Connolly: So that is how the waiver is achieved—it is done by statute, action of Congress.

The Chairman: So the figure Mr. Burns was giving us on copper, in the first stage of 2.2 per cent and then down to 1.6, is really zero up to 1.6, and then up to 8.5 per cent on the higher level of manufacture.

Senator Carter: Mr. Burns, coming back to your table on page 2 and the decline in exports by 4 per cent in 1974 and 8 per cent in 1975, was that shortfall in exports concentrated in any one of these categories?

Mr. Burns: Perhaps Mr. Wenaas or Mr. Kelly would reply to that question.

Mr. Kelly: Mr. Chairman, I have some figures here that will give you some idea. If we look at the decline, we find that many of the traditionally important export goods

failed to show an improvement. Exports of non-ferrous metals, alloys, lumber and asbestos were significantly lower in 1975 than was the case a year earlier. Crude petroleum exports fell substantially as a result of the reductions imposed on Canadian oil supplies to the United States. There was a modest rise in natural gas due to price increases and in automobiles and trucks, chiefly following the introduction of the 1976 models, and in iron ore and fertilizer exports.

Senator Carter: Could the shortfall be characterized in terms of technology? Was there a fall-off in high technology goods as compared to low technology goods? That would seem to be the case from what you just read.

Mr. Kelly: If I may answer, Mr. Chairman, because of the recessional conditions that prevailed in the United States, the export volume of machinery and equipment that would be used in the production of goods and the related service categories, such as loading and unloading equipment, was down because the demand from the United States was not there.

Senator Connolly: And the housing program fell down.

Mr. Burns: Yes. This is very heavily weighted, Senator Carter, by the very heavy proportion of non-ferrous metals and forest products in our trade. Both of those are directly related to the level of industrial production, and as that fell in the United States those exports fell off quite substantially.

Senator Croll: Can you give us some indication as to the extent demand fell as a result of conditions in the United States and the extent to which the fall-off might be attributable to the fact that we were pricing ourselves out of the market?

Mr. Burns: I will ask Mr. Wenaas, our statistical expert, to reply, if I may, Mr. Chairman.

The Chairman: Mr. Wenaas.

Mr. Wenaas: One point that is worth bearing in mind in examining the overall picture is that while our exports to the United States declined in volume by about 8 per cent from 1974 to 1975, as was indicated by Senator Carter, the imports of the United States declined by around 12 per cent in volume. In other words, our exports to the United States declined somewhat less in volume than did the exports of other countries to the United States. I think it is useful to look at the picture in that kind of perspective.

I think it is also useful to emphasize, again, that part of the decline in the volume of Canadian exports to the United States resulted from the impact of a change in energy policy in Canada. In other words, there was a decline in the volume of our exports of crude petroleum to the United States. I think it is useful to bear that in mind when looking at Canada-U.S. trade.

Senator Connolly: I think that is very helpful to us, but I am still left with Senator Croll's basic question as to whether or not any portion of the decline in our exports to the United States was as a result of the higher prices being charged by Canadian exporters.

The Chairman: Is there a statistical way in which that can be measured?

Mr. Wenaas: It would be exceedingly difficult to measure it, Mr. Chairman, and I think it could be argued that the effect would be registered more in the long run than in the short run.

Senator Connolly: I do not know what inspired Senator Croll to ask the question, but I know what inspires me is the fact that we see editorials constantly to the effect that we are pricing ourselves out of world markets.

Senator McElman: Not just editorials, Senator Connolly; government statements.

Senator Connolly: Wherever you want to say the idea originated, the idea is there. We have no statistical information to back that up, I take it.

Mr. Wenaas: I do not think this is a question that should or could be answered in summary form. It is a question that would have to be dealt with commodity by commodity. That is why it is such a complicated matter.

Senator Croll: But you people are sitting there and can see that something has gone wrong with one particular area; business is not good in one particular area. Doesn't anyone ever ask the question of somebody else in the government, "What happened here, Joe? Why is trade dropping off in this area or that area?" Sooner or later you know you will have to appear before some committee and give an explanation, because some fellow who doesn't know anything about it, like myself, will ask the question and you will have to answer it. If I were involved and saw an area of our trade falling off, I would try to find the answer. Perhaps I would not be able to find the answer, but I would certainly attempt to. As a matter of fact, while we were talking I marked down here, "Can anybody give us an uninhibited reply?"

Mr. Burns: Mr. Chairman, I do not know whether my remarks would qualify as an uninhibited reply, but I should like to make two or three points. I think the point made by Mr. Wenaas a moment ago is of some importance. Total imports into the United States from all countries declined, in volume terms, by 12 per cent between 1974 and 1975. Total imports from Canada into the United States declined by only 8 per cent. That is at least a prima facie case for saying that we did not lose as much as a result of the industrial recession in the United States as did the majority of the trading partners of the United States. That would presumably suggest that our pricing was not all that far off.

A second consideration, as a statistical matter, is that you are measuring intangibles, in the sense that you cannot measure statistically what business might have been theoretically lost. There is no gathering mechanism for unachieved orders; there are only mechanisms for measuring achieved orders. From that standpoint, I think one has some difficulty in making a judgment about whether or not the question of Canadians pricing themselves out of the market had an impact in 1975. Because there are always lags in this type of operation, there is no doubt that if our prices continue to be on the upswing, our performance will diminish. However, it is not a question of sharp declines.

The Chairman: I sympathize with our witnesses, Senator Croll, in that I do not think this is the type of thing that could be statistically established or proven, and I agree that it is something that you would only see in the long term. Taking the lumber industry of my own province as an example, it is not that the industry is selling less lumber, but that it is selling it in the world market in an

unprotected marketplace. They have to sell it at whatever price is available, and the degree to which we are pricing ourselves out of the market does not result in our selling less lumber, but in the liquidity position of the industry getting worse and worse each year. That develops a very long-range problem of the industry not developing new plant and equipment, not buying new machinery, getting too much debt as opposed to equity into the industry. That is where that shows up, and that is not a statistical thing that these gentlemen could really put before us.

Senator Croll: Mr. Chairman, as Senator McElman said a moment ago, and as Senator Connolly has said, for two years the government, at the ministerial level, has been saying, "We are pricing ourselves out of the market!"—and specifically saying that with respect to pulp, paper and other products, giving facts and figures. I am one of those who accept some of these statements as fact. Doesn't this affect other departments, particularly trade people, who read such statements and examine them within their own scope, or do they simply say, "This has nothing to do with me at all"?

The Chairman: Well, I have made my interjection. I will again turn it back to you, Mr. Burns, to answer Senator Croll's question.

Mr. Burns: Mr. Chairman, being interested in both the industrial development side and the international trade side, as our department is, we are obviously very concerned about the competitive capacity of Canadian industry. You have suggested one result of uncompetitive activity, Mr. Chairman, which is lower profits, a lower return to exporters in Canada than perhaps is the case in other countries, and I think perhaps there is some evidence that in some of our leading industries the rate of return is not as satisfactory as it should be in terms of operations in other parts of the world. Whether this in fact results in a reduction in the physical flow of goods from Canada is another question. Metals are sold internationally, either on the basis of the London Metal Exchange price or on the basis of producer prices in the United States. These are set. If you want to sell anything you have to sell at that price. Pricing yourself out of the market in basic commodities that we trade in is a question of being prepared to accept lower profits or lower returns, and it does not affect the volume of the goods that you sell in the short run. In the longer run it may have a very great impact on the volume you sell because of lack of new investment in the industries concerned.

Senator Connolly: If I might be the devil's advocate; if the chairman is right, then we are not pricing ourselves out of foreign markets, but our domestic industries are absorbing losses that they otherwise might not. They are governed by prices in the international market; they can presumably sell as much as the market will absorb, and it does not matter very much whether the price charged is as high or as low as it is; it is the international price. It will not impede the flow of goods, according to this explanation. All it will do is decrease the domestic profit, the corporate profit.

The Chairman: But that will in due course decrease the flow of goods, because as that industry becomes sick enough and does not renew itself and revitalize itself, it will slowly go on the rocks.

Senator Connolly: That is not the sense of Senator McElman's statement about the government claims, or my earlier statement about the editorial writer. He says, as Senator Croll said, "With labour costs and material costs rising the way they are, we are pricing ourselves out of the market." That is not the explanation.

Senator Croll: No. He has taken the long, theoretical, professorial view of things.

The Chairman: Not professorial at all; more business-like. You talk to the people in the principal industries in my province. While those industries are continuing to export at full flow of quantity, they are getting very, very dangerously close to no liquidity.

Senator Laird: Which means bankruptcy.

The Chairman: Which means, eventually, bankruptcy.

Senator Croll: Oh no.

The Chairman: I will show you some papers on the subject. Senator Carter, had you finished your questions?

Senator Carter: I have two more questions, but I will ask them at another time. Our time is getting short.

The Chairman: Yes, it is.

Senator McElman: It seems to me that there is no question more important for us to address ourselves to than the one we are on right now. It is not just newspaper editorials. If it were we could forget about it. It is not just ministers who have been making these statements over the last several years. It is basically and primarily our Minister of Finance and our Prime Minister. This is the guts of the whole thing we are studying. The statement is made that we are pricing ourselves out of world markets. We know that in 1975, as related to 1974, we took a turnabout from a surplus of $1.28 billion, or thereabouts, to a deficit of somewhere between $800 million and $900 million—closer to $900 million. We are looking at a changeover from surplus to deficit in one year of over $2 billion. There has to be a reason for it.

Energy costs are playing a very important part, and the decrease in our exports of oil and so on to the United States is a major part of it. Surely we must have some way of measuring the elements of the end costs to the importers of our products. I know that in my own poor, benighted province of New Brunswick we currently have a minimum wage of $2.35. By the end of this year we will be up to somewhere in the area of $2.80 in two jumps. Senator Croll probably knows more about this than I do. The minimum wage in the United States today is $2.35.

Senator Croll: Just across the border.

Senator McElman: We have been talking for years about parity in the auto industry, for example. We have passed parity. We do not hear any talk about parity any more. We are paying higher wages in Canada than they are in the United States, and the United States is the large part of our export market.

Mr. Chairman, if we just talk in generalities we are not getting anywhere here today. It seems to me that there must be within government, whether it is in the Department of Industry, Trade and Commerce or wherever it might be, some way of breaking down the cost of our major exports, as to what is raw material, what is wage input and what profit, for example, and having a look at this over the last few years to see the changing position. You say, Mr. Chairman, it is largely in profit. Others say to us that the

fac tor of wages, salaries and so on has changed substantially. If there is not some way of measuring this, then we should be about finding some way of measuring it, shouldn't we? Should we not see what the change is that is taking place? Our whole trade picture hangs on it, doesn't it?

The Chairman: Senator McElman, I sympathize with what you and other senators have said, and I identify with you very much, because I happen to feel that this is an extremely serious problem. My concern, as chairman here—I am entirely in the hands of the committee—is that we are off the subject of this particular meeting. These people have come to us prepared with information on tariffs. I would like to try to stay with that subject. If senators would like, we could structure a separate meeting and see what statistical and other evidence could be forthcoming, both from this department and from Finance, on this other point. I do not want to see us lose the time available to us this afternoon, and I want us, as much as possible, to take advantage of the expertise that these particular witnesses have on the subject they came prepared to discuss today, namaly, the tariff structure between Canada and the United States. This is a Canada-U.S. study and it is a comparative relationship with the similar tariffs that we have with the other main trading entities, the European community and Japan.

Senator Croll: Mr. Chairman, these are correlated matters.

The Chairman: They may be very closely related, but I do not know how you start relating our wage scales in Canada and our taxes in Canada—a cost of doing business in Canada, the same as wages—to the study of our respective tariffs between Canada and the United States. That ismy only concern.

Senator Connolly: Mr. Chairman, what you are saying is fair and it may be that we should stick to the question of tariffs and the problems that emerge from that consideration today, but perhaps ask the witnesses whether the point that is raised now, so specifically by Senator McElman, should be a matter that they might come back to us on.

The Chairman: It is a matter of concern to all of us.

Senator Connolly: I do not believe anyone would object to that. I believe it is interwoven with the problem that we have before us about the declining trade balance.

The Chairman: Yes, and the competitors in our industry in the American market. Certainly we should see what can be brought together by your department, Mr. Burns, and by Finance.

Senator Croll: If we are talking about international trade, let us talk about cause and effect. That is what we are talking about. You cannot come in to us and say, "These are the statistics and our reasons". We are grown people and we have been through this. We know what it is all about. We ask questions which are pertinent. The fact that you had difficulties in British Columbia in your main industry—well, you voted Mr. Barrett in; I did not. You will have to take your own chances.

The Chairman: I did not vote for him either. We have got rid of him since, you know.

Senator Croll: That is a particular atmosphere but we are interested in the total subject. We have got to get down to it. For that reason we need answers. If he is unable to give us the answers, at least he can say he will bring someone here who will give us the answers.

Senator Laird: It is worth alpecial meeting.

The Chairman: I will now turn it back to Mr. Burns for his observations as to whether or not his department would be able to bring us something useful in this general area. It could be done either by themselves or in conjunction with the Department of Finance.

Mr. Burns: Mr. Chairman, we would be very glad to look into that. May I have just another moment or two?

The Chairman: Yes.

Mr. Burns: Obviously, the question which your committee has now raised, which is where our cost structure is going as compared with the cost structures of our major trading partners, is a highly important question. We will see what we can do in terms of providing you with useful information on this point.

Let me just say that this is a highly complex issue, when you are looking at the flows of trade. Three points occurred to me as you were discussing this. First of all, the relative rates of industrial growth as between the importer and the exporter is a very important element in relation to what kind of trade is going to flow. It is clear that our exports to the United States were affected to some degree as a result of this factor. I am not going to suggest that this was the only reason they declined in 1975, but a very important element was the lower rate of industrial production in the United States.

Senator McElman mentioned the balance of trade shifting very rapidly. That was partly due to the fact that the decline in the rate of industrial production in Canada was very much lower than the decline in the United States. So, the level of our imports held up on a much larger scale in categories such as industrial machinery and equipment than our exports to the United States did. Those are some general observations.

More recently I would have thought that the exchange rate changes that have taken place have a very important effect on the possibilities for our exports.

Senator Croll: That is correct.

Mr. Burns: Those factors are not totally unrelated to the cost picture in Canada, and they have a bearing on what sort of trade patterns exist at present and how they will develop in the future. It is generally accepted, Senator Croll, that economists are saying there will be a gradual increase in industrial activity in the United States, with some lag, because of inventory problems and that kind of thing. I would expect that our exports in volume to the United States will begin to rise, because they are a function, in a large part, of the level of industrial production in the United States. All these elements must be taken into account, if you are going to look at what has brought the present pattern to where we are today and what the future is going to be, as well as the question of costs.

Senator Croll: It is not just a question of cost. Senator McElman has asked a very simple question. He said we had a surplus of approximately $1.2 billion, and we are down to a loss of about $800 million or $900 million. We do not know the answer to that. We habe no way of getting it, except through people like you and others. We want an answer to

that. You then say, "so much is attributed to oil and so much is attributed to the value of our money, and in total this is what happened." This is what we want.

Mr. Burns: I am sure we can produce an aggregate kind of table of that sort.

Senator McElman: And take it back over, say, a five-year period and then we would get a trend.

Senator Connolly: That would be a good book to make.

Senator Croll: It is not easy but it should be done. This is an important committee and when you look into this sort of business, we have got to come up with some answers, not just talk about it.

The Chairman: We are certainly going to make every effort.

Senator Croll: Fine.

The Chairman: I wonder if senators have further questions relative to the presentation, concerning tariff structure?

Senator Croll: I have one question.

The Chairman: Yes, Senator Croll?

Senator Croll: On the paper that you presented, Mr. Burns, at page 5 you were dealing with refined zinc, pulp and paper, et cetera. Then, you say:

> These examples suggest there is probably scope for Canada to do better in the United States market in terms of processing.

You are talking about our national dream. I have been dreaming that for a long time.

Senator Haig: That is a railroad!

Senator Croll: Why haven't we made better progress in that respect over the period of years?

Mr. Burns: There are very many reasons for that, senator. The one that is particularly relevant to a discussion of the sort we are having today is the question of the differing levels of tariff protection against degreess of processing. The United States, in copper, is an importer and it has a smelting industry and a large wire and cable industry, and all the downstream kind of activity in the copper field. We have been traditionally an exporter of either concentrates or of refined metal. When you get to semi-fabricated products, levels drop down very sharply indeed.

The Chairman: You mean the exports drop, not the tariff; the tariff rises up.

Mr. Burns: Yes, the exports drop very sharply. That is partly a function of the differences in tariffs, which means that Canadian manufacturers thinking of establishing a large-scale plant for a downstream copper product, must take into account a sizeable U. S. tariff. It is one of our objectives in the GATT negotiations to see to what extent we can reduce the escalation of foreign tariffs in these metal areas so that there is an opportunity for Canadian producers to look at a market that is larger than the Canadian market for these downstream products, and, thereby, remove one of the important inhibitions against establishing in Canada the scales of production that would make us competitive internationally in downstream products.

Senator Croll: Mr. Burns, I have been here for many years and I have heard that same argument from people less eminent than yourself. But nothing ever happens. My time is running short and I want to know why.

Mr. Burns: Well, . . .

Senator Croll: If you cannot answer it, that is all right. We can't either. So we are even.

Mr. Burns: I was trying to find an analogy which would be appropriate to answer your comment, Senator Croll. I think it is fair to say that ministers have made it clear that, with respect to our objectives in the international negotiations, a leading priority is in terms of getting the framework conditions established in a manner which permit greater processing of resources in Canada. That is not to say that trade barriers are the only problem. There is a series of other problems which must be overcome before we can move in this area in any comprehensive way. The problems relate to the technology required, the status of the companies in the trade in Canada, and many internal aspects as well. Indeed, the aspect of the ownership of the company is important.

Senator Croll: You know, I was there—and this is a few generations ago—when they started the automobile business which finally came to fruition. It was 40 years ago when we first started that, but at least ultimately I saw some results. But at that same time in other parts of the country we were dealing with this matter and yet we still do not see any results—at least, certainly not to the same extent. Why would we have been more sucessful than the other parts of the country which, in my opinion, were in an even better position than we were?

Senator McElman: You are now getting into the question of tariffs, my friend.

Senator McNamara: I think Senator Croll is overlooking the fact that we have made a great deal of progress in the Kennedy Round negotiations. We have not been asleep all these years. We have made good progress over recent negotiations, and we hope to make more in Geneva this time.

The Chairman: You mean, in the reduction of tariffs on a multi-national basis.

Mr. Burns: If I may, Mr. Chairman, I should like to comment on Senator Croll's remark. If you take a couple of the principal resource industries of Canada, you would see that, tariffs at a fairly low level but with some economic significance were reduced in the Kennedy Round to zero. This related to a very wide range of fish products and to lumber going into the United States. In addition a whole series of tariffs was eliminated. In the paper sector we were able to get a 50 per cent reduction in the level of the U.S. tariff over a very broad range of paper products. While those have permitted some advance in the sale of paper products in to the United States, one would expect to get another bite at that in during the present negotiations. This is a step-by-step kind of approach. One cannot, in this international negotiation, move totally at once. But, certainly—and we can demonstrate this, I think, Mr. Chairman, if you like—that there have been reductions in the U.S. tariff over the period since 1945 in some of these products, reductions of substantial interest to Canada where one will see a steady reduction in the level of the tariffs.

Senator Croll: Well, that is the kind of information we would like to see.

The Chairman: Well, a credit to our negotiators is that some of those tariffs have come down more rapidly than have ours.

Mr. Kelly: Mr. Chairman, Senator Croll mentioned the Smoot-Hawley tariff of the 1930s. I should like to add that the United States tariff schedule today is a two-column schedule which shows in column one the lower rates which apply to all countries except the communist ring countries, but they have a couple like Yugoslavia and Poland which get most-favoured-nation treatment, or the column 1 rate. The column 2 rate is the statutory rate for the tariff, and if one looks back at this as it reflects the Smoot-Hawley tariff, one will find rates which run 70 to 80 per cent. That is the kind of rate which has been negotiated down over the years. We have rate changes which are most significant, which are down to these low ranges we are talking about, 5%, with the possibility of rates which are 5 per cent or below and going to "free" in the next step of the negotiations.

Mr. Burns: We would be very glad to give you some illustrative examples of products we trade with the United States, to show tariff reductions since the end of the war, if that would be agreeable.

The Chairman: Thank you. Certainly, before I for one could have a clear idea of this it would be necessary to have a good deal more information on it.

Senator McElman: Mr. Chairman, just looking at the history surrounding it, it is obvious that the development of the manufacturing industry in Canada—for processing our raw materials through to the semi-processed and, indead, the end product stage—took one massive jump as a result of war. War has enabled us to develop an industry of scale. Either we were able to develop our technology ourselves or we could receive as a gift from other nations their technology so that we could develop a manufacturing industry of scale. God forbid that that has to be our future, but that has been up to this point in time the method of our development. Senator Croll is asking whether we have made progress and why have we not made more progress, but the fact is that whatever progress we have made has been as a result of war, the latest one being, of course, Viet Nam. We had our input there as well, whether we like to acknowledge it or not. There was also Korea, and, of course, the Second World War was the one in which we came of size with respect to manufacturing.

Moving from that to Senator Croll's comments about tariffs, I, like yourself, do not want to get into tariffs too greatly now because I would take all of the time of this meeting and the next one as well. I am a maritimer from the Atlantic Provinces where this country has literally destroyed us with tariffs.

The Chairman: We will get into the matter of tariffs before the hearings are over, senator.

Senator McElman: If we were to deal today with only tariffs, there would be no room for other questioners. Hopefully we will get into the matter of tariffs later.

The Chairman: Yes, senator, very fully before we are finished with the hearings.

Senator Connolly: Mr. Chairman, as I remember it, during the war we had a defence production agreement with the United States. In effect, I believe, we were able to integrate our production with theirs to the extent that some of the finished products which were produced for war purposes depended upon Canadian production. I remember Grant Dexter writing about this at great length at that time.

After the second World War—and this follows Senator McElman's reasoning—the war production area continued in existence, I think, quite extensively, because of Korea and Viet Nam, probably. I think we would like to know something, perhaps, on a comparative basis with regard to what has happened to that kind of trade, and whether it has fallen to the extent that it has made an appreciable difference in the amount of historic exports we have made to the United States in comparison with the level of exports we have now in that field.

What I have said about war production perhaps might apply in certain other areas of the economy. I have in mind, too, that these industries that we talked about, although I could not identify them readily, are all labour-intensive industries. As I remember it, they all provided a great deal of employment, and they were pretty vital to the manufacturing establishment, particularly in central Canada, as opposed to eastern or western Canada. This may be an area in which we might, with profit, get some information from Mr. Burns and his assistants.

The Chairman: Yes, Senator Connolly. I just do not think there is any question, Mr. Burns, but that you are going to have to return more than once before we exhaust this subject to our satisfaction. I have one or two questions along those same lines myself, but I want to wait until the other senators are through before going into them.

Senator Connolly: If I may follow up on what I was just saying, briefly, Mr. Chairman, I should like to point out that it may be that in this area most of the export to the United States, or to other countries that might have used it, was duty free; but if it was not, and if the rates have fallen, I think we would like to know about that also.

Senator Croll: Mr. Chairman, is it time to let the civil servants go home?

The Chairman: Not quite. I think Senator Carter has another question.

Senator Carter: I do not want to prolong the meeting. If it is time to go, why, let us go.

Senator Connolly: We have had a good meeting today.

Senator Carter: Well, I would like to come back to where I left off earlier, this question of high technology. As I understand it, for some time now we have had a deficit on high technology goods, and in 1974 it was up to around $5 billion. What I would like to know is, what is the cause of that deficit, and to what extent is it related to tariffs?

Mr. Burns: Mr. Chairman, I am not sure myself what a high technology product is. Let me just take one example of what I think must clearly be a high technology product. One of our nickel producers has developed an extraordinary new system over the last ten years of refining nickel ores into nickel metal. It is an hydrometallurgical process, and is a very highly technological piece of work. It has resulted in increased exports from Canada. Is that a high technology product, then, because it is the result of a high technology process? Or should we think only of high technology products as computers, or the like? There is a

question there that one has to examine a little more closely.

Senator Carter: I do not want to take up time on that, but there must be a definition of it, otherwise we could not compute a balance of payments deficit. I am only referring to the definition that is used to determine the balance of payments deficit. There must be a definition that has been agreed upon, and that is used to determine that there has been a deficit.

Mr. Burns: Mr. Chairman, there has been a series of attempts made to define what high technology products are. This is not a very precise kind of definition to attempt, and I was trying, in that kind of example, to indicate that it cannot be very precise. I think, in terms of the sorts of figures that you have just mentioned, that it is true that the balance of trade in the category of goods that were defined in that way has expanded; but it is also true that the rate of growth has been higher in relation to our exports, in proportionate terms, than it has with regard to our imports. Perhaps I am not being very precise about what I mean.

We start our exports at a lower dollar base that our imports, and they have been going up on a sharper rate than our imports have been; but because of the different place we start at, the absolute level of the deficit has grown. For example, I have some figures here that suggest that from 1960 to 1973 our exports of technology-based goods have gone up 17 times in terms of value, while our imports have gone up 6 times; so that when one takes a look at the perspective, the progress is not bad. On the other hand, the differential in absolute terms is high, and important; but as to whether tariffs have a particular impact on that or not, I tend to think not. It is more a question of what Canada can do in an industrial sense. Most of the imports of high technology goods are themselves used to increase the productivity of Canadian industry, so we cannot, I think, use the kind of mercantilistic argument that exports are good and imports are bad, because the imports of high technology goods make a particular contribution to productivity in Canada.

Senator Carter: I would like to ask a question on our cross-border trade; that is, from the parent companies to branch plant companies. Supposing tariffs were removed, would that trade expand, do you think?

Mr. Burns: Oh, Mr. Chairman, I think you would have to look at it almost company by company to see what sort of operation each company had. It would be very difficult to make a generalized statement about what would happen if the tariffs were just dropped tomorrow.

Senator Carter: Is this trans-border trade affected by tariffs, in its whole setup?

Mr. Burns: It can be, yes.

Senator Carter: But we have not made any particular study of that situation.

Mr. Burns: Well, the cross-border trade, as between related companies, Senator Carter, really breaks down into different categories. There is one very large category in which the affiliate company in Canada is a supplier of raw materials to the parent company in the United States. That group of companies is probably unaffected by tariffs, because most of those goods move duty free.

Senator Connolly: Iron ore, for example.

Mr. Burns: That is one very important example in that category. There are, of course, other companies in which there is some trade in end products as between the Canadian affiliate and the parent company, where the Canadian company makes one line of goods out of a large number, and supplies it both for Canadian and United States consumption. In a situation where tariffs were reduced, one would look for the expansion of that kind of trade.

There is another category, I think, in that sort of broad breakdown, where the Canadian company is merely a small mirror image of the American company, in that it makes very nearly all the products the American company makes, and I am not sure what sort of results you would get if you reduced tariffs on both sides, in those circumstances.

Senator McElman: In that middle category, of interest to you, Senator Carter, there would be fish blocks, and what the United States does with them after they get them.

Senator Carter: That was going to be my last question. On page 6 your table shows fishing, crude materials, $121 million; fabricated, as processed fish, only $23 million. Certainly that is a function of the U.S. tariff; we know that. What are the prospects with respect to that? There is tremendous room for expansion there.

Mr. Burns: Mr. Chairman, just to prove to Senator Croll that we do something once in a while on the tariff side, we had the U.S. tariffs on unprocessed fish eliminated in the Kennedy Round. We also paid a good deal of attention to a fairly unfortunate anomaly in the U.S. tariff, which, pre-Kennedy Round, applied a 30 per cent and 20 per cent rate respectively to the two major categories of frozen breaded fish sticks, which were the major consumer products that might move. These tariffs were reduced in the Kennedy Round by 50 per cent. They are still high tariffs, but we were able to negotiate a very substantial reduction from earlier levels. I would assume that we will attach the same degree of importance to getting tariff reductions on this occasion. If the same degree of tariff reduction is possible, one can see a tariff running between five per cent and 10 per cent for these products, as distinct from the situation of 10 years ago, when they were at 20 per cent and 30 per cent. So one can see some advances in this field although, obviously, not to the extent that would satisfy the industry in eastern Canada.

Senator Carter: Would the cod blocks mentioned by Senator McElman be regarded as processed or raw material?

Mr. Burns: Crude material.

Senator Carter: And I gather that the 23 million is mostly salmon?

Mr. Burns: Or Winnipeg goldeye.

The Chairman: Mr. Burns, before thanking you for your presentations today, I have one or two questions to ask, following which I would like to see if we can refine it all. Rather than sending you off on a wild goose chase, because one can go on in so many directions on this subject without ever coming to an end, I would firstly like to see if you can reduce it into ballpark figures for us in an endeavour to bring it together. I am left with the impression that we have a more favourable situation regarding the tariff impact on our goods, either processed or semi-processed, insofar as the United States is concerned than we have

with either the European Community or Japan. Is that a reasonably fair statement?

Mr. Burns: Yes.

The Chairman: Then, if that is a fair statement, can you, by bringing the tariff on categories together—keeping in mind that we must in this committee work in ballpark figures as opposed to each item—bring that to us in either statistical or visual form? We could then demonstrate to a layman that we do indeed have a more favourable situation or opportunity for the export of goods into the United States, insofar as the impact of tariffs is concerned, than we do to the EEC and Japan, and to what extent it is favourable. Is that a possibility?

Mr. Burns: I think it is, senator, and we will do our best to produce such material for you.

Senator Connolly: Some of those graphics were very clear in that respect.

The Chairman: Then can the several graphics be brought together into a more simplistic form?

Mr. Burns: We will see what we can do.

The Chairman: The next point is that the tariffs do not, as you quite properly pointed out, taking table 1, go on, in direct proportion, as we march up that list. In other words, they are not zero on inedible crude materials, then go up on edible fabricated materials, and go up even higher on edible end products. They do to some extent, but there are tariffs within that. Is there any sort of chart, or, rather, simplistic demonstration you can give us as to how they go on relative to value added, or labour added, or skills added? I have always been under the general impression that if you take a basic raw material, there are no tariffs against it, as you export almost anywhere in the world. Then, as you add to it, the tariffs go on at a steeper and steeper rate. This, in turn, must have a direct bearing as to where the Canadian manufacturer stops adding value to it. Can we demonstrate the points at which that happens in the Canadian manufacturing process?

I am directing my thoughts here specifically to the cry in Canada that we are "hewers of wood and drawers of water" and we must do much more processing and manufacturing in Canada. From some of the presentation you have made today, I am impressed by the fact that we seem to be doing much more fabricating and processing at various levels than I realized. There may not be that much more room for us in that area as we think there is.

This would be difficult to add into your graphs, but there is a specific point of counter productivity when you start using the term "labour intensive." In your presentation you pointed out that generally speaking the resource industries were capital intensive and that the processing industries were labour intensive.

Mr. Burns: It slides, on a scale.

The Chairman: But if you get too labour intensive an industry, you are into a completely counter-productive exercise, because you are then competing with the labour markets of Taiwan and South Korea in manufacturing running shoes. Your work may then be very labour intensive but your workers have to work at $10 a day instead of $50 a day. Is there any statistical data? I cannot imagine how you would do it, but these are some of the things that concern me. I leave them with you, not to launch into a huge job but simply to give some thought to them.

Senator Carter: You mean, where is the cut-off line?

The Chairman: Yes. At what point do you say "Well, that industry is too capital intensive and therefore we should not use all our capital just to employ one man; whereas over here we can employ very little capital and employ 10 men"—but perhaps employing those 10 men at a wage they will not work for.

I hope that our staff economists, Mr. Robichaud and Mr. Neil, who are here from the Parliamentary Library, are thinking in those terms, because those are the things we have to get into.

My final question, being one that several senators raised during the course of discussion, is the whole business of pricing ourselves out of the market and whether or not there is any statistical or graphic demonstration that can be brought in that area.

I thank you again for your presentation and will let you go with those thoughts. Please get back to us, through our staff, with what you think we are seeking. I do not want you to go to an immense amount of work or to send you on a wild goose chase. We have a long way to go before we really have our minds wrapped around the subject. Subject to any further observations, we can now adjourn.

Senator McNamara: Have you any plans, Mr. Chairman, for the next meeting?

The Chairman: Yes. As I have already announced, we were going to have a meeting on Thursday week, but we decided against it because of the Conservative convention. I say that in deference to the Conservative members of the Committee. So it will not be next week but the following week, when there will be two meetings.

Senator Carter: Mr. Chairman, do you envisage a separate report on the tariff aspect?

The Chairman: I think what we originally visualized was a volume on trade, and when I say "trade" I mean it in its broadest concept, namely, not just those items involved in tariffs, but all the exchange of goods and services between Canada and the United States, including visibles.

For your guidance and assistance, Mr. Burns—and it seems we will be leaning on you for some months—the Report of the Economic Council of Canada, which is very germane to parts of our study, covers a comparatively small portion of the total. As I understand the statistics dealing with our exports to the United States, 50 per cent is raw material of one sort or another with very little tariff impact, and of the remaining 50 per cent, two-thirds comes under the Auto Pact, which means that in our exports to the United States we are only talking about 15 per cent, that attract tariffs.

Mr. Burns: I think about 30 per cent.

The Chairman: Is it as high as 30 per cent that is affected by tariffs?

Mr. Burns: Yes.

The Chairman: In addition, we will be going into all the other areas, including invisibles such as insurance premiums and the large amounts of money that go back and

forth across the border. We are going to try to get our minds around a whole package rather than just one part of it.

With those comments, I adjourn the meeting.

The Committee adjourned.

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FIRST SESSION—THIRTIETH PARLIAMENT
1974-76

THE SENATE OF CANADA

PROCEEDINGS OF THE

STANDING SENATE COMMITTEE ON

FOREIGN AFFAIRS

The Honourable GEORGE C. van ROGGEN, *Chairman*

Issue No. 23

TUESDAY, FEBRUARY 24, 1976

Twenty-Second Proceedings Respecting:

Canadian Relations with the United States

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(Witnesses: See Minutes of Proceedings)

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THE STANDING SENATE COMMITTEE ON FOREIGN AFFAIRS

The Honourable George C. van Roggen, *Chairman*

The Honourable Allister Grosart, *Deputy Chairman*

and

The Honourable Senators:

Asselin	Lafond
Barrow	Laird
Bélisle	Macnoughton
Cameron	McElman
Carter	McNamara
Connolly (*Ottawa West*)	Rowe
Croll	Sparrow
Hastings	Yuzyk

Ex Officio Members: Flynn and Perrault.

(Quorum 5)

Order of Reference

Extract from the Minutes of Proceedings of the Senate, Wednesday, November 6, 1974:

"Pursuant to the Order of the Day, the Senate resumed the debate on the motion of the Honourable Senator van Roggen, seconded by the Honourable Senator Riel:

That the Standing Senate Committee on Foreign Affairs be authorized to examine and report upon Canadian relations with the United States;

That the Committee be empowered to engage the services of such counsel and technical, clerical and other personnel as may be required for the purpose of the said examination, at such rates of remuneration and reimbursement as the Committee may determine, and to compensate witnesses by reimbursement of travelling and living expenses, if required, in such amount as the Committee may determine;

That the papers and evidence received and taken on the subject in the preceding session be referred to the Committee; and

That the Committee have power to sit during adjournments of the Senate.

After debate, and—
The question being put of the motion, it was—
Resolved in the affirmative."

Robert Fortier,
Clerk of the Senate.

Minutes of Proceedings

Tuesday, February 24, 1976
(28)

Pursuant to adjournment and notice, the Standing Senate Committee on Foreign Affairs met at 2:35 p.m. this day.

Present: Honourable Senators van Roggen (*Chairman*), Barrow, Cameron, Carter, Connolly (*Ottawa West*), Croll, Grosart, Lafond, McElman, McNamara, Sparrow and Yuzyk. (12)

Present but not of the Committee: Honourable Senator McGrand. (1)

In attendance: Mr. Peter C. Dobell, Director, Parliamentary Centre for Foreign Affairs and Foreign Trade; Mrs. Carol Seaborn, Special Assistant to the Committee; Mr. Bill Neil and Mr. Raymond Robichaud, Research Assistants to the Committee.

The Committee continued its study of Canadian Relations with the United States.

Witnesses: From the Department of Industry, Trade and Commerce:

Mr. T. M. Burns, Senior Assistant Deputy Minister (Operations);

Mrs. Eileen A. Mahoney, GATT Division, Office of General Relations;

Mr. James Taylor, General Director, Western Hemisphere Branch; and

Mr. Carl J. Wenass, Chief, Canada-U.S. Division, Macro-economic Analysis Group.

During the course of their presentations, the witnesses made use of charts and tables, which are reproduced in the record, at the first point of reference, where that is feasible. (*See also Appendix "A" to these Proceedings.*)

During his presentation, Mr. Wenass submitted a memorandum containing general information and a series of statistical tables respecting exports and imports between Canada and the United States.

That memorandum, respecting Canada-United States Trade—1960 to the present, was identified as "Exhibit No. 1" and made part of the Committee's records.

At 5:40 p.m. the Committee adjourned to the call of the Chairman.

ATTEST:

E. W. Innes,
Clerk of the Committee.

The Standing Senate Committee on Foreign Affairs

Evidence

Ottawa, Tuesday, February 24, 1976

The Standing Senate Committee on Foreign Affairs met this day at 2.30 p.m. to examine Canadian relations with the United States.

Senator George van Roggen (*Chairman*) in the Chair.

The Chairman: Honourable senators, following on our last meeting, there are a number of follow-up responses as a result of information requested by honourable senators, one particular question being whether Canada was pricing itself out of the U.S. market. That was a question pursued by several honourable senators at our last meeting.

We have with us today Mr. Burns, who was our witness last week, but he is here today not as our principal witness but as an observer. Our witnesses today are as follows: Mrs. Eileen A. Mahoney, GATT Division, Office of General Relations. Mrs. Mahoney made a presentation to the committee last week. Also, Mr. Carl J. Wenaas, Chief, Canada-U.S. Division, Macro-economic Analysis Group. Mr. Wenaas, as honourable senators will recall, has been before the committee on previous occasions. Also with us today is Mr. James Taylor, General Director, Western Hemisphere Bureau. Mr. Taylor is appearing in the place of Mr. Kelly, who is unfortunately down with the flu.

I believe the preference is for Mrs. Mahoney to begin to be followed by Mr. Taylor and then Mr. Wenaas. Perhaps we should hear all three presentations, following which Senator McElman has kindly consented to start off the questioning. I would therefore call upon Mrs. Mahoney.

Mrs. Eileen A. Mahoney, GATT Division, Office of General Relations, Department of Industry, Trade and Commerce: Thank you, Mr. Chairman. The information I am about to relate to the committee was sent to Mr. Innis earlier in the week and comprises a number of tables which, I hope, will answer some of the questions that were raised during the course of the last meeting. These are tables showing tariff escalation for groups of products and also showing the different levels of tariff protection vis-à-vis the four markets of the United States, Canada, Japan and the EEC.

Honourable senators will recall that at the last meeting there was some discussion as to the level of tariff protection in the United States afforded to exports from Canada, and the comparison between that level of protection in the United States and the level against which Canadian exporters to Japan and the EEC were faced.

Taking as an example Table 1, which is headed "Ferrous Metals—Imports and Tariff Averages", if one reads the tariff averages horizontally—that is, looking from the USA to Canada, to Japan, to the EEC—one can compare the average level of tariff protection afforded in these markets.

Note: See "Explanatory Notes" which appear as Appendix "A" to these Proceedings.

Tables 1 through 4, which cover ferrous metals, non-ferrous metals, pulp and paper products and wood products also show the effects or the existence of tariff escalation.

You will recall that the last time we were here, there were some questions addressed to Mr. Burns relating to tariff escalation. This is the feature of a tariff, whereby, as the product becomes more processed, the level of the tariff increases. So, in most instances, if one looks down vertically, taking for example the Canadian tariff and looking through ferrous metals, you can see that the tariff averages increase; taking tariff average A, 2.7 on ores and metal waste; 4.2 on unworked iron, steel; 5.2 on ferroalloys and then there is a slight anomaly of 5.1 on semi-manufactured products of iron and steel; followed by 11.9, on the second page of table 2 for all metal manufactures.

This data was taken directly from the GATT tariff study. The product categories and sub-categories that are presented here are ones which were discussed and agreed to internationally, in the context of the GATT.

You will notice a note in the covering notes to these tables, which points out that in the case of the two groups of metal products, we have been unable to split out the raw materials, that is, ores and metal waste and the metal manufactures into ferrous and non-ferrous. So, some anomalies occur.

I would just like to say one word about tariff averaging. I have given you two different tariff averages here. Tariff average A is a simple unweighted average.

In Appendix 1 to the tables, there is a mathematical description of how the averages were worked out, but it is usually a little easier to follow in words.

Tariff A is a simple average. Therefore, if you have three tariff items in this particular category with rates of duty free, 5 and 10 respectively, the simple average would be 5. You would add up each rate, zero plus 5 plus 10 equals 15, divided by the number of tariff items, and that is three, and in that case tariff average A would be 5 per cent.

Tariff average B is weighted by the volume of national imports. This is necessary because if you take a simple average, you may have a very huge basket item as one tariff item, under which there is, let's say, one million dollars worth of imports—that item is duty free.

The other tariff items, in the category that you are concerned with, may be a very very small range of products out of the basket, so it would be, for example, all chemicals used in pulp and paper except chlorine. Chlorine would then be a separate tariff item.

Obviously the trade impact of that one tariff item is much smaller than of the basket, from which it is extracted. So, the simple tariff average tends to over-estimate the

significance of these small tariff items, either the height of the tariff or the non-existence of a tariff level on those items.

Tariff average B, therefore, takes into account the fact that some items will be much more important than others, by virtue of their definition. However, it does underestimate the significance of items, where the tariff is very high. Generally speaking, if you have a very high tariff, you get very little imports, even though it might cover a wide range of products. Therefore, as is sometimes the case in the United States, you have a relatively high rate of duty on one specific item. Tariff average B would then underestimate the importance of that item since it is weighted by the volume of imports.

As I mentioned before, the first four tables show both escalation, if you read horizontally through a particular country's tariff averages, and also shows the different levels of protection afforded by the four importing regimes.

To give you an idea of the size and the importance for Canada of these various categories, I have included the total imports, the amounts which are duty free and then the imports from Canada.

I would point out that the Community, the EEC, is based upon the assumption that there were nine member states. That would include the United Kingdom but it does not include intra-EEC trade, that is, trade between the United Kingdom and France, or between Italy and West Germany.

Coming now to the last three tables, tables 5, 6 and 7, these tables are not intended to show escalation. I have selected a number of sub-categories, first of all, from the chemical sector and then from the machinery sector and finally I have selected some product categories where there are relatively high tariff averages across the board.

These tables only show the difference in tariff protection between the four importing entities.

For example, on chemical elements and compounds, taking either of the tariff averages, the EEC would have the highest tariff average, the highest level of protection.

Senator Connolly: What table is that on?

Mrs. Mahoney: This is on table 5.

Senator Connolly: I see.

Mrs. Mahoney: This is a selection of sub-categories from the chemical sector.

Senator Connolly: I see.

Mrs. Mahoney: In the first instance, looking at paints and varnishes, and taking tariff average A, 9.1 for Japan, 9.4 for Canada and 9.5 for the U.S.A. and 10.9 for the Community, if one takes the weighted average, the United States has the lowest with 7.3 and Canada has the highest with 14.7. So, you can see there is quite a difference, depending on exactly which measure you take.

Senator Carter: Can you conclude that the higher the volume of imports weighted, the lower will be the tariff?

Mrs. Mahoney: It would depend, senator, on what the relative levels of all the tariff items were. If you take an example where you have three tariff items in a product category, duty free, 5 per cent and 10 per cent; the simple average, which is average A, would be 5 per cent. If now we take those three items and on the one that is duty free, you have $50 million worth of imports and on the one that is 5 per cent, you have no imports, and on the one that is 10 per cent, you have 50—no, I am sorry, that is not going to work out.

If you have $50 million worth of imports on the duty free item and you have $20 million worth of imports on the 5 per cent item and then you have $30 million worth of imports on the 10 per cent item, the weighted average would actually come out to be 4 per cent, because the highest weighting is applied to the lowest rate of duty, that is, the duty free one, since half of the total imports in this category entered at that rate.

If you switch the whole thing around, and you had $30 million worth coming in duty free and the same $20 million worth coming in at 5 per cent and then $50 million worth coming in at 10 per cent, you would end up with an average tariff of 6 per cent weighted.

Therefore, it depends, when you weight, which items had the greatest weighting and where that item's tariff level was in comparison to the other tariffs in that particular category.

I hope the arithmetic was correct.

Senator Carter: I was just wondering what pushed the federal level of Canada from 9.4 up to 14.7, as a weighted average. There must be some heavy weights around somewhere.

Mrs. Mahoney: In Canada's case that would mean on the items where the rate of duty was higher, which in the case of paints and varnishes would be 17½ per cent or 22½ per cent, there was more trade than on the items where the tariff rate was slower. This may be because the items where the tariff rate was lower were very specific types of items, covering a narrow range of products and thereby, by their nature, ther was not a lot of importation. It was irrespective of the level of the tariff in that instance, but because it was a very specialized classification. One generally finds that in the United States moving from the tariff average A to tariff average B results in a reduction in the tariff average for the United States. This is very much a function of the type of tariff that we see in the United States and which I am sure Mr. Taylor will touch on when he comes to a discussion of the United States tariff.

The Chairman: And it is quite the opposite in Canada; it goes up as you come to the weighted averages?

Mrs. Mahoney: It does that more often; in some instances it goes down. For example, if we look at table 1, on the very first page, the simple tariff for ores and metal waste is 2.7, but the weighted average is zero and you can see, looking above, that almost 100 per cent of the imports in this product category enter Canada duty-free.

The Chairman: I am sorry, I should have qualified my remark by saying in cases of manufactured products, or products with more value added, the Canadian average seems to go up more than down when you come to the weighted columns.

Mrs. Mahoney: That seems to be the case more in Canada than in the other countries. I do not know whether you would like me to carry on talking about the tables; I can really only read out what is already there and perhaps it will promote some questions.

The Chairman: We will come to the questions in due course, Mrs. Mahoney. Perhaps you have some general

conclusions you would like to give us as a result of these tables, or tell us what you would read into them.

Mrs. Mahoney: In looking at these tables, two basic points emerge: first of all, with respect to escalation, it becomes evident that in a general analysis there is more escalation in Japan and the Community than there is in the United States market. I am referring now to the figures that we have used in here. I think this was much the type of conclusions that you reached at the meeting the last time. The United States seems to have lower rates of duty on the semi-manufactured products, or a lower jump in the rates of duty on semi-manufactured products, than does the EEC or Japan. At the same time, there are quite a number of raw materials entering the United States which do not enter duty-free. This is very rarely the case in Japan and the EEC and, of course, is a function of the fact that Japan and the EEC have very little raw materials in their own domestic economies, whereas the United States does. With respect to comparing levels of tariff as opposed to escalation, generally speaking on raw materials and on some semi-processed products, the U.S.A. occasionally comes out higher and sometimes comes out lower than Japan or the EEC. With respect to machinery, the U.S.A. generally comes out lower than Japan or the EEC, but when one moves into the types of product categories that most people usually associate with high tariffs, such as clocks and watches, toys, footwear, clothing and clothing accessories, et cetera, then in most instances the EEC will have a lower tariff average than the U.S.A. Last week I pointed out that in the European Economic Community there is not a single tariff item on industrial products with a rate of over 25 per cent. This is definitely not the case in the United States.

Senator Connolly: In the case of clocks and watches, toys, footwear, clothing and clothing accessories, which all appear on table 7, why would the EEC average rate be lower than that of the United States? I know it is because they have done it that way; is there less industry to protect?

Mrs. Mahoney: I think it may be a function of the way that the Common External Tariff for the Community was established when the Community was formed. That is that they took, as I understand it, the tariff rates of each of the member states and worked out an average, so that in some instances this averaging method resulted in a lower rate of duty, or a lower level of protection, than was being afforded to a specific member state prior to the formation of the Community. This could result in a lower level than with the Unites States.

Senator Connolly: But that is almost a mathematical result, is it not?

Mrs. Mahoney: I would say so, senator.

Senator Connolly: Is there not some basis for it in the economies of the member states?

Mrs. Mahoney: There is another very factual matter that is relevant here. That is that in the Community the tariff is applied on a CIF basis. Let us say it is a 10 per cent tariff, then it would be 10 per cent on the value, plus the cost of insurance and freight. In the case of the United States and Canada the tariff is based upon an FOB value so that with a 10 per cent rate of duty on a product that has exactly the same value entering Canada or the United States as opposed to the Community more duty would be paid in the case of the Community because it would be on a higher basis, the CIF base rather than the FOB base. In general, the trade policy of the Community seems to have moved towards having a Common External Tariff on an industrial product where the tariff rates are not very low, (as in the case of the United States, which we discussed last week, where the United States have all these rates of duty between 0.1 per cent and 5 per cent) and are not very high either. Now, whether this is tied to their general economic policy, I do not know; this is just the way it comes out. Maybe someone else can make a comment on this.

The Chairman: Possibly we should press on. Would you think, that there may be a connection between labour-intensive articles insofar as the United States tariff being high is concerned, as opposed to articles which would lend themselves to mass production?

Mrs. Mahoney: Probably Mr. Taylor can answer that better than I. These articles are not only perhaps labour-intensive, but they are also in some instances, in the case of clocks and watches, for example, regarded as luxury items, so that there would not be the same incentive to reduce the tariff as there would be on products that are sort of essential to life and limb. However, Mr. Taylor, I believe, intends to give a discussion of the U.S. tariff.

Senator Connolly: You mentioned clocks and watches, which may be in the luxury category: now, clothing and clothing accessories in the United States have moved the tariff average, the weighted average to very high; would that not be a factor of a policy to protect the clothing manufacturing industries? That is the question which I was trying to pose in connection with the EEC. Is there something in the tariff policy and the economic policy of the Euopean countries, or in the supply of raw materials, or in the capacity to produce designs and processes that they have not got and which their people want and by which their policy is influenced, as opposed to the situation in the United States, where, for the sake of argument and comparatively speaking, they have the raw materials, they have the know-how, they have the design and all the rest of it, so they do not want someone else coming in to interfere with them?

Mrs. Mahoney: I think, as a general rule, the relative height of the tariffs on clothing and clothing accessories is a function of the fact that the different economies do want to protect their domestic industries, particularly against the low wage cost imports from other parts of the world. But generally speaking, and moving outside of clothing and clothing accessories to the whole tariff on the industrial side, I would say that the United States and Canada use the tariff as almost the major instrument to determine conditions of access vis-à-vis imports.

In the case of Japan and the Community, there are quite a number of other policy instruments they use to a greater extent than does Canada and the U.S. in order to determine the conditions of access for imports into those two markets. I am thinking particularly in the area of non-tariff barriers, which I understand this committee is going to look at at a later date.

The Chairman: Yes, at the meeting after next.

Mrs. Mahoney: So while the level of the tariff here in the U.S. may appear to be higher, that may not be the only part of the story in terms of access conditions.

The Chairman: Thank you. Mr. Taylor?

Mr. L. J. Taylor, General Director, Western Hemisphere Bureau, Department of Industry, Trade and Commerce: Mr. Chairman, we have not prepared any written material to hand out at this time, rather we will use a set of charts to show how selected U.S. tariff rates have changed over the years. These can be made available in types form if this is thought useful by the Committee.

Senator Connolly: Would they be available for the record?

The Chairman: Yes, in time.

Mr. Taylor: May I then give the Committee a rundown of some illustrative items in the United States tariff schedules from an historical perspective.

First on the format: On the left-hand side of the tables are the relevant product categories or, in some cases, specific tariff items of the United States tariff schedules.

The first column, on the Charts as you move in from the left, is the United States tariff which was established in 1930, the "Full Rate" tariff. These rates reflect the international trading environment of the period which was generally quite protectionist and the high U.S. tariffs which were introduced at that time.

The second column is the tariff rate after the first round of multilateral tariff negotiations in Geneva in 1947, after these negotiations had been completed, and show the reductions from the pre-war rate.

The last column is the present tariff rate after the outcome of the Kennedy Round, which was one of the most significant tariff negotiations in the post-war period.

Table 1

Commodity	Full Rate	Geneva '47	Geneva '67
CATTLE (Live)			
Under 200 Lb.	2.5¢/Lb.	1.5¢/Lb.	1.5¢/Lb.*
200 to 700 Lb.	2.5¢/Lb.	1.5¢/Lb.	1.5¢/Lb.
Over 700 Lb.	3¢/Lb.	1.5¢/Lb.	1.5¢/Lb.**

Note: * Over 200,000 Head 2.5¢/Lb. on excess.

**Over 400,000 Head ,,,,,,, on excess

SWINE	2¢/Lb.	1¢/Lb.	0.5¢/Lb.
MEATS (Fresh, Chilled or Frozen)			
Beef, Veal	6¢/Lb.	3¢/Lb.	3¢/Lb.
Pork	2.5¢/Lb.	1.25¢/Lb.	0.5¢/Lb.
MEATS (Prepared or Preserved) Not in Airtight Containers			
Beef (Not Over 30¢/Lb.)	6¢/Lb.	3¢/Lb.	3¢/Lb.
Beef (Over 30¢/Lb.)	20%	10%	10%
Pork (Ham, Bacon)	3.25¢/Lb.	2¢/Lb.	2¢/Lb.

Between Geneva 1947 and Geneva 1967, over a period of 20 years, there were a series of tariff negotiations: in Annacy (France) in 1949, in Torquay (U.K.) in 1951, in geneva in 1956, and Geneva again in 1960 and 1961.

These negotiations were not as ambitious as the 1947 and 1967 negotiations illustrated on the charts. I point this out simply to illustrate that the United States tariff did not move directly from this point (Geneva, 1947) to that point (Geneva, 1967) in one jump. There were these more limited negotiations in between.

The Chairman: Just for the record, do those arrows mean zero?

Mr. Taylor: The arrows mean that the rate which was arrived at after the Geneva 1947 negotiations still prevails today. In other words, there has been no change subsequent to those negotiations which lowered the 1930 rate. For example, in live cattle under 200 pounds, the rate was 2.5 cents in the pre-war era going into the Geneva negotiations in 1947. The negotiations resulted in a reduction of this rate to one and one-half cents per lb. for not over 200,000 heads. Subsequent negotiations have not resulted in any further change.

The Chairman: It is still one and one-half cents a pound.

Mr. Taylor: Yes. One will see, that for certain of the agricultural products there has not been much movement in the post-war years, illustrating that agriculture has had a more spotty record for tariff reductions than industrial products, not just as regards the United States, but also for other countries.

The first item, on this chart is live cattle, which, of course, is again a fairly actively traded product between Canada and the United States. One can see that the tariff has moved down in 1947 but has remained the same since the Geneva negotiations in 1947.

Senator Croll: What does that "excess" mean—that footnote?

Mr. Taylor: I am glad you pointed that out, Senator. It illustrates one of the particular complexities of U.S. agricultural tariff. The United States tariff, for example, on feeder cattle weighing under 200 lbs. is one and one-half cents per pound for the first 200,000 head which enter in any calendar year. Thereafter the tariff jumps—it is called a tariff rate quota—to two and one-half cents per pound. It is a different sort of escalation than the type Mrs. Mahoney has been illustrating. It jumps to two and one-half cents per pound for all cattle that come in in that particular year over and above 200,000 head. The same principle applies in respect to the slaughter cattle, the over 700-pound cattle. The tariff rate jumps again to two and one-half cents from one and one-half cents a pound when the total cattle entering in any calendar year exceeds 400,000 head.

Senator Grosart: What was the nature of the latitude given to importing countries to negate this whole matter by import controls? I am speaking now of the Kennedy Round. This applies particularly to cattle, meat.

Mr. Taylor: It is called a tariff rate quota since the tariff is escalated to a higher rate after a certain quantity of imports has been reached.

Senator Grosart: My question relates to non-tariff import controls in the meats.

Mr. Taylor: There is a United States import law related to meat. That law was put into effect in 1964 and has

provided for an element of quantitative control when invoked. To this point, it has been used as an instrument of "persuation" in negotiating voluntary restraints with major suppliers.

Senator Grosart: Was this provided for in the conventions under the Kennedy Round?

Mr. Taylor: No, it has never been on the table for negotiation. To the best of my knowledge, it has never been tested in the GATT insofar as its validity is concerned.

Senator Croll: As an exporter, how would I know whether I had reached the quota, or was about to go over the quota, so as to avoid the extra tariff? Would I be advised by the American officials or the Canadian officials?

Mr. Taylor: The Americans keep comprehensive records at the border in terms of the flow of cattle, and that information is relayed back to the U.S. customs officers. In that way, the trigger level is monitored.

As I recall, imports into the United States have, by and large, stayed below these tariff quota break levels. In other words, the number of cattle imported into United States has not exceeded these levels in the normal flow of trade. As far as who is liable for the increased tariff, the importer would have to pay the higher rate of duty if it were triggered.

The Chairman: Before you leave that table, Mr. Taylor, I would like to point out for the record that all but one of the tariff items are in cents per pound and not in percentage figures. It is therefore obvious that a tariff of 1.5 cents per pound in 1947, taking into consideration the effect of inflation, would have been reduced by two-thirds, except for beef over 30 cents a pound, which is not reduced.

Senator Sparrow: Could you go over that again, Mr. Chairman?

The Chairman: Taking the factor of inflation into consideration, if those were percentage figures, the tariff would have remained constant for the past 30 years; but because they are on a cents per pound basis, rather than a percentage basis, the result of inflation is that they have been reduced.

Mr. Taylor: You are quite right, and that does introduce another element of uncertainty in that as the price fluctuates, the actual incidence of the duty fluctuates.

Senator McNamara: When was that last change in relation to pork and swine negotiated? Was that a special negotiation following the Kennedy Round?

Senator Grosart: That is the Kennedy Round.

Mr. Taylor: The tariff of half a cent a pound on pork is the outcome of the Kennedy Round.

Senator Macnaughton: I thought 1¼ cents was the result of the Kennedy Round.

Senator Grosart: No, that goes back to 1947.

Mr. Taylor: That was the case after the first tariff negotiations and the tariff of one-half a cent a pound is the current tariff after the Kennedy Round was completed.

Senator McNamara: In other words, the Kennedy Round did not result in any change in relation to live cattle or meats?

Mr. Taylor: There are only the two items where there was movement.

Table 2.

COMMODITY	FULL RATE	GENEVA '47	GENEVA '67
FISH (Fresh, Chilled or Frozen)			
Ground Fish	1¢/Lb.	0.5¢/Lb.	FREE
Salmon	2¢/Lb.	0.5¢/Lb.	FREE
Halibut	2¢/Lb.	0.5¢/Lb.	FREE
FISH (Filleted, Skinned, Boned)			
Ground Fish and Rosefish			
(a) Quota 15,000,000 Lb. or 15% of average annual consumption in previous three calendar years	2.5¢/Lb.	1.875¢/Lb.	1.875¢/Lb.
(b) Over Quota		2.5¢/Lb.	2.5¢/Lb.
FISH (Frozen Blocks)			
Not over 10 lb. Blocks	2.5¢/Lb.	2.5¢/Lb.	FREE
FISH (Breaded or Coated with Batter)			
(a) Neither cooked nor in oil	20%	10%	10%
(b) Other	30%	30%	15%
SALMON (Canned)	25%	25%	7.5%

The second table illustrates some fish items in the U. S. tariff. As you can see, ground fish, salmon and halibut have moved down to the point where they now enter the United States duty free. Fresh, chilled or frozen fish are often used for further processing—for example, into fish sticks. Consequently, these fish items are treated, to some extent, as a raw material.

When one gets to certain fish products that are further processed before being exported the prevailing tariff is 15 per cent, although it has come down from a tariff of 30 per cent in the pre-World War II period.

Here we have another complicated tariff item where there is a break in the tariff, depending on the volume of trade.

Table 3.

COMMODITY	FULL RATE	GENEVA '47	GENEVA '67
POTATOES (Whole)			
Within Quota	75¢/100 Lb.	37.5¢/100 Lb.	37.5¢/100 Lb.

Over Quota	75¢/100 Lb.	75¢/100 Lb.	75¢/100 Lb.
Prepared or Preserved	35%	17.5%	17.5%
WHISKEY			
Canadian	$5.00	$1.50	$0.62
		per proof gallon	
LUMBER			
Dressed Lumber Tariff Rate	$1.00	$0.25	FREE
Internal Revenue Tax	$3.00	$0.75	FREE
		per 1000 feet board measure	
Birch & Maple Flooring	8%	4%	FREE
Birch & Maple Veneers	20%	10%	4%
Softwood	40%		20%
Plywood			
Hardwood	40%		
Plywood			
Face ply of birch	40%		7.5%
Other hardwood	40%		10%
(Canadian species)			

The third table deals with other agricultural items. Looking at potatoes, the tariff is also based on a tariff quota break point. The tariff of 37½ cents per 100 pounds is applicable up to the level of 45 million pounds, above which the applicable tariff is 75 cents per 100 pounds.

Senator McNamara: Do we go over that break-point often?

Mr. Taylor: I believe so.

Senator Connolly: I take it the Americans fixed it high enough to look after the kind of market that exists? They did it on the basis of the normal market?

Mr. T. M. Burns, Senior Assistant Deputy Minister, Operations, Department of Industry, Trade and Commerce: When we began to negotiate this, Senator, the tariff item got broken so that we could get a reduction. In other words, the Americans, at the time we negotiated that the first time—and I think this was an item that Canada negotiated—were not prepared to reduce the total of the tariff, but were prepared to offer a reduction for the first quantity that came in, and we took that concession into the negotiations.

Senator Grosart: Are the quotas subject to variation subsequent to GATT 1967?

Mr. Taylor: No. These represent the current tariff quota levels.

Senator Grosart: The quotas are enshrined in the GATT agreement?

Mr. Taylor: Yes.

Senator Grosart: How would you relate the positions of those quotas to import controls? Do they wash out the quotas?

Mr. Taylor: The term "quota" is a misnomer in this respect insofar as the first 45 million pounds that enters incurs one duty rate, 37.5 cents per 100 pounds and thereafter additional amounts incur a tariff of 75 cents per 100 pounds. However, there is no quantitative limit applied to imports. It is simply a case of a higher tariff applying after a certain quantity has been imported. On the other hand, for purposes of illustration, under import controls there might be an absolute quantitative limit, say, of 60 million pounds, and when that level is reached, for that particular calendar year no more imports are permitted. In the case of tariff rate quotas, once the break ceiling has been reached imports can continue but they attract a higher duty thereafter.

Senator Grosart: In other words, the import control wipes out the quota. It is only a tariff rate comparison.

Mr. Taylor: There is no quantitative control under this item.

Senator Grosart: Have we ever appealed an import control under GATT?

Mr. Burns: Mr. Chairman, may I interject, in response to Senator Grosart's question? Quantitative restrictions are permissible under the GATT in certain prescribed circumstances, the most important of which is in relation to action that you might take in respect to what is commonly called the escape clause. In other words, when a country finds that its industries are being seriously injured by imports, it is entitled to apply quantitative restrictions, among other devices, to provide temporary protection for that domestic industry. Otherwise, the instrument of protection is the tariff.

Quantitative restrictions are also permitted in times of balance of payments difficulties.

If countries apply quantitative restrictions in other than the latter circumstances, it is then open to the trading partners in the GATT that are affected to ask for compensation by greater access in other areas.

Mr. Taylor: The final illustrative item under agricultural products is whiskey, which of course, is one of the major items in our trade with the United States. There have been substantial reductions in the tariff from the prewar era. There was a substantial reduction in 1947 in one negotiation and subsequently the tariff has been reduced to a level of 62 cents per proof gallon.

In the U.S. lumber tariff there has been fairly constant downward movement from the prewar era and from the first negotiation down to the Kennedy Round. The dressed lumber tariff has been reduced to zero. The tariff set in the 1930's was to protect the U.S. industry turning logs into lumber and meant that Canadian exporters faced a higher tariff for dressed lumber than logs, a less processed product. Dressed lumber now enters the U.S., as does flooring and birch and maple veneers, at significantly lower rates than prevailed in the prewar era, and after the first negotiations in Geneva.

Senator Connolly: Would a factor perhaps be the depletion of lumber resources in the States?

Mr. Burns: Mr. Chairman, I would like to comment on that. The U.S. lumber tariff has always been an area of the

U.S. tariff where we have negotiated downwards because of its very great importance in both Western and Eastern Canada. So, it has always been an item that has been in negotiations and indeed those reductions have all occurred as a result of one or other of the GATT negotiations that have taken place since the end of the war.

The Chairman: Mr. Taylor, I have only one comment on lumber and that is: You do not have one of our biggest items there, plywood, which I believe has a substantial tariff against it.

Senator Connolly: Would veneers be plywood?

Mr. Taylor: Veneers are the sheets that go over the core stock, but, yes, Douglas fir plywood is an important product, and the rate is 20 per cent.

Mr. Burns: The United States have two or three items on plywood, Mr. Chairman. On the Douglas fir plywood, the rate is 20 per cent today. On the birch plywood, my recollection is it is either 7 or 8 per cent and on other hardwood plywood it is about 10 per cent.

The Chairman: I knew it was a substantial item, and I was wondering what it was.

Senator McElman: This matter was raised by Senator Connolly that the birch and maple veneer supplies in the U.S. are not just diminished, they are at rock bottom and we are gradually getting there too. That is why it is down so low.

The Chairman: Yes, I think that is quite true, Senator McElman. I would suggest that plywood would be a pretty important item to add to that because it is a little less favourably treated than your other examples.

Table 4.

Commodity	Full Rate	Geneva '47	Geneva '67
FURNITURE			
Wood Furniture,			
Other Than Chairs	40%	12.5%	5%
Wooden Chairs	40%	20%	8.5%
MANUFACTURES OF WOOD (N.S.P.F.)*	33.3%	25%	8%
PRINTING PAPER (N.S.P.F.)	0.25¢/Lb.	0.17¢/Lb.	0.08¢/Lb.
	+10%	+4%	+2%
BUILDING BOARDS			
Vegetable Fibres	20%	10%	FREE

* Not Specifically Provided For

Mr. Taylor: In Table 4 furniture components have been a growing element in our trade in the last decade with the United States and the U.S. tariff has moved down to a rate which while not low is at least not prohibitive. Similarly on manufactures of wood, the rate has come down to 8 per cent in the course of the post-war negotiations. On printing paper, the rate has been reduced to 0.08 cents a pound plus 2 per cent of the value. Finally, in the category of building boards, there is free entry into the United States, for vegetable fibres building boards.

The Chairman: For the record, printing paper would be what they call, in the vernacular, fine paper?

Mr. Taylor: Fine paper, yes. The tariff is complex here. When I say it is not specifically provided for, there may be a number of other rather specialized tariff items. The United States went through a reclassification exercise of its tariffs in the 1960's where they expanded the number of specific items covered previously under broad descriptions and to include new products which were not in existence in the 1930's. The forest products tariffs have been substantially reclassified by this process. The chart illustration would not cover all fine papers.

Senator Lafond: On the printing papers, are those figures actually cents per pound or hundreds of cents per pound?

Mr. Taylor: It is hundredths of a cent per pound.

Senator Lafond: Thank you.

Table 5.

Commodity	Full Rate	Geneva '47	Geneva '67
CHEMICALS			
Styrene	7¢/Lb.	7¢/Lb.	1.4¢/Lb.
	+45%	+45%	+9%
			*(A.V.E. 15.7% in 1974)
Synthetic			
Rubber	20%		3%
Titanium Dioxide	30%	15%	7.5%
ASBESTOS			
Yarn, Slivers,			
Ropes, Cloth	40%	10%	4%
HYDRAULIC CEMENT			
Other than			
White Portland	6¢/100 Lb.	2.25¢/100 Lb.	FREE
IRON INGOTS	20%		6%
FORGINGS			
Not Alloyed	25%		6%
Alloyed	33%		8%

* Ad-Valorem Equivalent

Mr. Taylor: In Table 5 chemicals is another very complex area of the United States' tariff. This chart shows some selected illustrative items, synthetic rubber, titanium

dioxide, styrene, etc. For the latter there is a tariff of 1.4 cents a pound plus 9 per cent of the value. Our rough estimate based on 1974 prices, is that this represents an *ad valorem* effect of roughly 16 per cent, when you combine the specific and ad valorem components of this tariff.

Senator Carter: Is the 9 per cent added on or calculated after the 1.4 per cent is added on?

Mr. Taylor: If the shipment, say, was valued at $100 and it weighed 100 pounds, as a hypothetical illustration, the duty would be calculated as $9.00 on the $100 value plus $1.40 on the 100 pounds weight for a total duty of $10.40.

Senator Connolly: In the chemical list that you have there of three items, you are simply making a selection of a few chemicals for illustrative purposes?

Mr. Taylor: Yes. For example, the asbestos item is not just one tariff item, but rather a number of tariff items. These were chosen, not totally at random, but bearing some relation to our trade. It was not easy to make a selection given the hundreds of items in the U.S. tariff and the need to trace back current specific items which were previously lumped together in large groups of products under one tariff.

Senator Connolly: But all of this discussion is fairly representative of the reduction in tariffs imposed by the United States from pre-war times until after the Kennedy Round.

Mr. Taylor: That is right.

The Chairman: Mr. Wanaas' presentation will be quite extensive, and I wish honourable senators to keep that in mind, because maybe we would rather obtain a conceptual picture than too much detail on one time.

Senator Connolly: He is just telling us that we are talking too much and you are not!

Table 6.

Commodity	Full Rate	Geneva '67
CAST-IRON, CASTINGS		
Not Malleable	10%	FREE
Malleable	20%	4%
IRON & STEEL		
Bars, Rods, Plates, Sheets, Rails, Pipes Tubes, Wire	20% to 30%	1% to 10%
COPPER		
Unwrought		
Tariff Rates	FREE	0.8¢Lb.
Internal Revenue Tax	4¢/Lb. on Copper Content	on Copper Content
Bars, Rods, Plates, Sheets, Pipes, Tubes, Wire	6.5¢/Lb. to 3¢/Lb. +45%	1.4¢/Lb. to 1¢/Lb. +15% (A.V.E. 1.2% in 1974 for Copper Strips in Coils which was a major item in this category)

Table 7.

Commodity	Full Rate	Geneva '67
ALUMINUM		
Unwrought	4¢ to 7¢ per lb	—1¢ to 1.2¢ per lb.
Wrought	7¢/lb. to 45%	—2¢/lb. (A.V.E. 3.6% and 9.5% in 1974) —to 12%
NICKEL		
Unwrought	3¢/lb.	FREE
Wrought	25% to 45%	3% to 9%
LEAD		
Unwrought	2.125¢/lb. on lead content	1.0625¢/lb. (A.V.E. 3.1-5.4%, 1974)
Wrought	6¢/lb. to 45%	—0.75¢/lb. (A.V.E. between 3.0% to 12.0%, 1974) —to 12%
ZINC		
Unwrought	1.75¢/lb. to 45%	—0.7¢/lb. (A.V.E. 1.6%, 1974) —to 19%
Wrought	2¢/lb. to 45%	—0.5¢/lb. (A.V.E. 0.6% of Zinc Dust in 1974. Other A.V.E.'s. up to 9.5% in the same year). —to 12%

Mr. Taylor: Table 6 deals with metals and metal products in which the tariffs have been reduced quite substantially during the course of the 20 years between 1947 and 1967. Here we simply have "pre-war" or full rate tariffs in the left column and those of after Geneva-67 in the right column. For aluminum and nickel (Table 7) which are important elements in our trade, the tariffs range from free to a few cents on the unwrought product and from /% to 12% on the wrought products. In lead and zinc there is a similar breakdown.

Table 8

Commodity	Full Rate	Geneva '67
GENERAL PURPOSE MACHINERY		
Boilers	45%	6.5%
Steam Engines	15%	4%
Steam Turbines	20%	7.5%
Internal Combustion Engines (Piston type)		
Compression-Ignition	35%	5%
Other	35%	4%
Non-Piston Type	35%	5%
Pumps	35%	5%
Air-Conditioners	35%	5.5%
LOADING AND UNLOADING MACHINERY	35%	5%
PULP & PAPER		
Machinery	35%	3.5 to 5%

Table 9

Commodity	Full Rate	Geneva '67
TEXTILE		
Machinery	30 to 40%	4 to 8%
METAL-WORKING		
Machinery	30 to 45%	4.5 to 9.5%
WOODWORKING		
Machinery	35%	5%
OFFICE		
Machinery	25 to 35%	4 to 6%
ELECTRICAL MACHINERY AND EQUIPMENT	25 to 45%	4 to 10.5%
AIRCRAFT	30%	5%
PLEASURE BOATS	25 to 45%	2 to 10%

Finally we come to the manufactured products and illustrations of some of the machinery items (Tables 8 & 9). As regards, internal combustion engines, they can also be covered by the Automotive Products Agreement between Canada and the United States, but the rates illustrated on the Chart show how these have been cut substantially in the post-war years. For pulp and paper machinery, the tariff rates are around three and one half per cent to five per cent at present. This area provides a good illustration of how tariffs tend to group together, in this instance between five and ten per cent for various types of machinery. For consumer goods there is a broad range of tariff rates for the many items in this area.

Senator Connolly: Are aircraft a big item to the United States?

Mr. Taylor: Not so much in aircraft as such, but in parts, sub-assemblies and components.

Senator Connolly: That tariff is not just for the finished product; it is components?

Mr. Burns: The same rate applies to aircraft parts as to aircraft.

Table 10

Commodity	Full Rate	Geneva '67
PROTECTIVE FOOTWEAR	25%	12.5%
X-RAY APPAR.	35%	2.5%
NAVIGATIONAL INSTRUMENTS	30%	5%
MEASURING AND TESTING		
Instruments (Electrical)	40%	10%
AUTOMATIC FLIGHT CONTROL		
Instruments for Aircraft	40%	6%
GAMES (Mechanical)	35%	5.5%
HOCKEY EQUIPMENT	30%	4.5%

Table 11

Commodity	Full Rate	Geneva'67
SKATES		
With Footwear	20%	10%
Without Footwear	20%	5%
RUBBER & PLASTIC		
Household Articles (N.S.P.F.)	80%	8.5%
Containers	80%	7.5%
Wearing Apparel	25%	12.5%
Pneumatic Tires		
Cars	10%	4%
Motorcycles		
Trailers		
Hose, Pipes & Tubing	25%	4%
N.S.P.F.	80%	8.5%

Table 12

Commodity	Full Rate	Geneva '67
FURWEARING		
Apparel (n.S.P.F.)	50	50
EATHERWEARING		
Apparel (N.S.P.F.)	35%	6%
WIGS		
Other Than Human Hair	35%	7%

Mr. Taylor: In tables 10, 11 and 12 when we move out of machinery into instruments, you can see that there have been substantial reductions in tariff rates. In consumer goods skates, with the footwear attached incur a higher rate than when the footwear is added in the United States. Wearing apparel of rubber or plastics is an area where Canadian exports have done relatively well in the United States, in spite of the tariff of twelve and one half per cent which is relatively high compared to some other tariffs in the textiles area.

Senator Connolly: There was a great deal of trouble a few years ago with respect to the Canadian tire manufacturer in Nova Scotia.

Mr. Taylor: That was Michelin.

Senator Connolly: The rate of duty since 1967 has been four per cent on those tires; does that still prevail and are there any quantitative restrictions?

Mr. Burns: The outcome of the Michelin trouble, as you describe it, Senator, was that the United States investigat-

ed that situation, the exports from Canada, to determine if they were subject to countervailing duty, in other words, whether they were subsidized exports. Indeed, the finding was that they were subsidized, and were countervailable, so there is an additional duty charged on those tires. However, it is very minor, if my memory serves me correctly.

Senator Carter: Is that 8.5 per cent on leather and plastic? I cannot quite make it out.

Mr. Taylor: Yes; 8.5 per cent on miscellaneous household articles made of rubber and plastic, a basket item that still exists in the tariff. Mr. Chairman, I take it that you would now like these charts to be reproduced and presented to your office?

The Chairman: Yes, thank you very much, so that we can include it in the record.

Senator Grosart: Is the basis of selection of the individual items in these categories to illustrate the average tariffs, or is there some other basis of selection of these items?

Mr. Taylor: No; we tried to pick out some major items but also ones in a number of these areas that represent a number of tariff lines. We have therefore tried to get the tariffs which represented a cluster of products.

Senator Grosart: That is more or less the average tariff throughout most of the products in that classification?

Mr. Taylor: Yes; we have not included clocks or textiles and other higher rate items; we have tried to pick out products and tariffs which are of interest to us.

Senator Grosart: You have also selected on the basis of the specific interests to Canada?

Mr. Taylor: Yes.

Senator Grosart: So we cannot take these as average in the various categories, or can we?

Mr. Burns: If I might make a general comment on this, Mr. Chairman, this is broadly representative of the U.S. tariff because it started at such a high level and because the first four or five trade negotiations were carried out on a specific item basis rather than an across-the-board basis, some items were left behind. So the item-by-item profile view of the tariff would show peaks and valleys and there would be quite a high number of very high items. The principal difference between the United States and the EEC tariff is that the EEC tariff is a product of averaging and the U.S. tariff is a product of history.

Senator Grosart: Yes I asked the question because there are no very high rates shown there and we know that there are some very high rates.

Senator McElman: Except that footwear stands out in this whole series as one of the highly protected areas, and we all know, of course, also that it is very highly labour intensive.

The Chairman: That showed up also in Mrs. Mahoney's comments on clocks, footwear and other items that are heavily labour intensive. For those items the tariff is at its maximum. Thank you.

I will now call on Mr. Wenaas who, to refresh the memory of honourable senators and for the record, is Chief of the Canada-U.S. Division, Macro-economic Analysis Group, Department of Industry, Trade and Commerce.

Mr. Carl J. Wenaas, Chief, Canada-U.S. Division , Macro-economic Analysis Group, Department of Industry, Trade and Commerce: Mr. Chairman and honourable senators, I have prepared a rather bulky document which is made up largely of tabular material which is intended for your information and may be something that you will find useful in your later deliberations. (*Identified as Exhibit No. 1 in Committee's Records*).

I will not be referring in detail to the tables, nor will I refer to all of the accompanying text. I would like, if you wish, to proceed in three stages. I shall begin with a verbal presentation touching on some of the points that have been made in the submission. I then propose to display certain graphs which indicate the volume changes, eliminating the effect of price on some of our significant exports to the United States; and then return to deal in a little more detail with trade between Canada and the United States in the last five years.

I thought it might be useful, since we have heard a very detailed discussion of some of the tariffs that affect Canadian trade, to return briefly to a more schematic view of the trading relations between Canada and the United States. It is useful to emphasize again that the Canadian and United States economies have become the most closely related, in terms of trade, of any two major economies in the world, and that Canada's trade with the United States constitutes a larger part of its total trade even than that of the countries of the European Economic Community with each other.

For instance, in recent years, only a little more than 50 per cent of the total commodity exports of individual EEC countries went to other EEC members, while about two-thirds of Canada's exports went to the United States. A similar picture is true of imports.

It is also useful to point out that despite the close trading links between the two countries, there are many major commodities in which there is little trade between the two countries. For instance, since both countires are major producers of a wide range of agricultural products, the trade between Canada and the United States in agricultural products has tended to be limited to those products which cannot be grown in the other country. It has been indicated that one of the reasons for this is the tariff schedule.

In general, agricultural products grown in Canada can also be grown in the United States; but the United States, with its wide range of climatic conditions, can produce many commodities, in general fruits and vegetables, which cannot be grown all the year round in Canada or which cannot be grown at all. Therefore the United States is a major supplier of fruits and vegetables to Canada, but the reverse flow of fruits and vegetables from Canada to the United States is limited. However, Canada compensates for this in the food, feed and beverages sector by being an important source of fish and fishery products in the United States and also of distilled alcoholic beverages.

Going further into the tables dealing with our trade classified according to the five principal commodity sections, it would be noted that in energy materials the nature of Canadian-United States trade has changed significantly in the last quarter century. Traditionally the United States has been a major supplier of coal to central Canada and used to be a major exporter of crude petroleum to Canada.

In the early 1950s the roles in respect of crude petroleum were reversed and Canada became an exporter of crude petroleum to the United States rather than an importer.

The United States remains an important source of coal for the Canadian economy, even though Canada now exports large quantities of coal to Japan. This international exchange of coal is justified by locational factors and by differences in the characteristics of the fuels traded.

Canada has also become a major exporter of natural gas to the United States, but no longer exports a large volume of radioactive ores and concentrates as it did in the late 1950s and early 1960s.

The trade in other types of inedible crude materials is not extensive. In 1975 the major imports of crude materials from the United States were iron ores and soya beans. Iron ore is also by far the principal inedible crude material apart from energy materials exported to the United States. Non-ferrous metals in ores and concentrates in total amounted to about three-quarters of the value of iron ores and concentrates.

The trade in inedible fabricated materials between Canada and the United States largely falls into three commodity categories; forest products, minerals and mineral products, and chemicals and chemical products.

In the table on page 2, I have summarized very briefly the nature of the trade between Canada and the United States in these materials. It will be seen that Canada's exports to the United States in this category are largely in forest products, made up largely of lumber, woood pulp and newsprint. Canada's imports from the United States of forest products are only about one-sixth of Canada's exports of forest products.

Trade in minerals and mineral products between the two countries is more complex and diversified. There is extensive two-way trade in iron and steel and alloys, and in aluminum and alloys, with a Canadian surplus in the latter and a United States surplus in the former.

Shipments of copper, nickel and zinc metals go largely from Canada to the United States. On the other hand, United States exports of chemicals and chemical products to Canada are nearly double those from Canada to the United States. About half of Canada's exports of chemicals and chemical products to the United States is made up of fertilizers and fertilizer materials.

The interesting thing about trade between Canada and the United States in inedible end products is that, apart from motor vehicles, it is largely concentrated in capital goods; in other words, in producers' equipment. Although the volume of trade between Canada and the United States in consumer goods is reasonably large, it is quite a bit smaller than the trade in capital goods. In think this is an interesting phenomenon.

Machinery of all kinds is, after motor vehicles and parts, the major category of trade in end products between the two countries. Canada's trade with the United States in machinery has increased greatly in value in recent years and Canada's overall role in this trade has increased. Our exports of machinery to the United States amounted to only 28 per cent of our imports from the United States in 1975, but this is a considerable improvement over the position in 1960 when our exports of machinery to the United States amounted to only 14 per cent of our imports from that country.

Senator Connolly: Can you, without a lengthy explanation, assign a reason for that change?

Mr. Wenaas: The reason for the change, I believe, is largely the substantial reduction in the U.S. tariffs on machinery. I examined this question in some detail and I found that total U.S. imports of machinery have increased manyfold in the period since 1960, and imports have increased not only from Canada, but also from other countries. This increase in our exports of machinery to the United States largely reflects the fact that Canada has been able to maintain its share of the total. Indeed, our share of total imports of machinery into the United States has risen somewhat in that period.

Senator Connolly: Is this specialized machinery, tailor-made machinery?

Mr. Wenaas: The growth in our exports of machinery to the United States covers all categories of machinery. This is shown in some detail in the tables appended to this report. You can see that our exports in metalworking machinery have gone up, as have our exports in pulp and paper machinery. Generally, our exports in all categories of machinery have gone up manyfold.

Senator Grosart: Are you just speaking of industrial machinery?

Mr. Wenaas: This also applies to agricultural machinery, although the rate of growth in agricultural machinery has not been as large.

Senator Connolly: But it does not apply to motor cars?

Mr. Wenaas: No, this excludes motor cars.

Senator McElman: Has not our export of sophisticated forest harvesting equipment gone up quite dramatically?

Mr. Wenaas: Yes. In fact, some of the percentage increases, if I might refer to Table 5, have been dramatic. Looking at Table 5, you will see that Canada's exports in general purpose industrial machinery went up from $5 million in 1960 to $139 million in 1975; exports of materials handling machinery and equipment went up from $140,000 in 1960 to $81 million in 1976; exports in drilling, excavating and mining machinery went up from $2 million in 1961—there wasn't any in 1960—to $66 million in 1975. This is a general pehnomenon. You can go through the whole list and you will find Canada has in fact become a major exporter of machinery, while previously our exports in machinery were concentrated in agricultural machinery.

Senator Connolly: Would this change have resulted in users, in jobbers—generally, Americans—who were selling in this market coming here and getting orders for certain types of equipment, certain types of machinery, required in the American market, or has it resulted from another development whereby, as Senator McElman suggested, we perhaps developed sophisticated machinery in the forest industry, for example, and then found that it had a ready market abroad?

Mr. Burns: This covers such a broad range, Senator Connolly, that it is very hard to make generalizations, but certainly the development of skills in the machinery trades because of our own requirements have led to increased exports in many areas. As Senator McElman mentioned, there has been a great deal of indigenous research to deal with our own forestry problems, the results of which have

been very readily exportable to the United States and other countries. A firm in Montreal has developed a newsprint machine that I think is probably the best in the world and there is a good market for that now in the United States. There has been a great deal of this type of activity.

Senator Connolly: I do not want to hold us up, but you will recall, Mr. Burns, that a great deal of sophisticated machinery of all kinds was required for war production, and one of the important places where American producers of war materials and equipment would come was to Canada where they would place orders with specifications, and that developed into quite a trade. It was very important to our industrial establishment. Does that go on today to any extent?

Mr. Burns: That kind of wholesale placing or oders is not a feature of the current circumstances.

Senator Connolly: Even in the defence industry?

Mr. Burns: That would not be the case even in the defence industry.

Senator Carter: Does this expansion in machinery exports relate to machinery made by Canadian firms, or is it machinery made by subsidiaries of American parent companies? Have you any information on that?

Mr. Wenaas: In the case of forest harvesting machinery, much of the forest harvesting machinery which is exported is exported by Canadian subsidiaries of foreign-owned companies, both U.S. owned and other.

As to other manufacturing industries, I do not have any specific information, although I suspect there would be a considerable element of this in relation to other machinery exports as well.

Senator Carter: Do you think one factor in this expansion would be the fact that these parent companies are producing orders for the Canadian subsidiaries?

Mr. Wenaas: In this specific industry that we were considering, forest harvesting machinery, in a number of cases the technological developments had been done in Canada by the research staff of the Canadian subsidiary. The parent company has made it a matter of policy that further developments in that line of machinery would be carried on in Canada and that the Canadian subsidiary would be the world source of that product in the operations of this particular corporation.

The Chairman: Senator Grosart, you have a question, and then we must get on with the presentation.

Senator Grosart: It was just going to add the remark that that was so in very few cases. In the overall picture that has not been the policy of the American parent companies. We have studied that in detail in other committees.

In view of this statement of the recent increase in our exports of industrial machinery and equipment, how does that compare with the statement, that we have heard many times, that Canada imports in absolute terms a greater volume of industrial machinery and equipment than any of the three or four leading OECD or Western industrialized countries?

The Chairman: Combined.

Senator Grosart: Yes. combined. I am asking: How does it compare?

Mr. Wenaas: What I have indicated here is that while our exports of machinery to the United States have grown very considerably, our imports have also grown very considerably, although at a somewhat lower rate. Our exports of machinery are still only about 28 per cent of our imports. As a matter of fact, in dollar terms, our deficit in our trade in machinery would have increased but I like to look at the percentage change. Obviously if a country starts out importing or exporting relatively little, then it requires a very substantial growth for the trade balance in this particular sector to become closer.

It is also useful to recognize, when speaking of trade balances, that we have to look at the total picture. If we have a substantial surplus in one commodity sector, we must expect that we are going to have a deficit in another major commodity sector.

Senator Grosart: Do I understand you to say, sir, that the trade imbalance in this particular field—I take it it is industrial and agricultural machinery—is increasing?

Mr. Wenaas: Yes, it is larger than it was, however, this is a product of simple mathematics. The dollar volume of trade in machinery has increased. Certainly our exports of machinery to the United States have increased about tenfold in the period from 1960 to 1973. Our deficit, as a percentage of the total, has fallen from 86 per cent of the total to 72 per cent. If the total trade has increased tenfold, it follows that our total deficit is substantially increased.

Senator Grosart: Therefore, it is not totally correct to say that the trade imbalance has increased; that is only in dollar terms?

Mr. Wenaas: Yes, in dollar terms.

Senator Grosart: In percentage terms it has decreased.

Mr. Wenaas: Yes.

The Chairman: Please carry on, Mr. Wenaas.

Mr. Wenaas: As a result of the Canada-United States Auto Pact, automotive goods has come to be the dominant single commodity group in trade between Canada and the United States. Its importance warrants a separate presentation to the committee, which I understand has been arranged, so, no further comment will be made at this time.

Now, I would refer just briefly to a couple of other specific items and then I will proceed to the chart presentation. There is a significant trade in other transportation equipment, particularly in aircraft and parts, with Canadian exports to the United States in 1975 well over $300 million and imports over $600 million. I believe there was a question asked about the volume of our trade in aircraft and parts earlier.

The pattern of trade in communications and related equipment is similar, although at a somewhat lower level. Among other equipment items, the United States has become a major supplier of electronic computers to Canada.

As the preceding description suggests, the pattern of trade between any two countries responds not only to differences in resource endowment, but to changes in the supply-demand situation of these resources. For instance, in less than three decades, the United States was transformed from an exporter of crude petroleum to Canada, to

a large importer. Now Canada, in turn, is substantially reducing its exports of crude petroleum because of its diminishing supplies in the medium term.

The pattern of trade responds also to technological changes, which may occur initially in one of the trading partners. An example of this is the development of the electronic computer, a product in which the United States has acquired a dominant world position, as it has also in aircraft production.

Changes in consumer tastes are another factor. Trade also responds to policy initiatives such as the Auto Pact, reductions in tariffs and non-tariff trade barriers—which have been referred to today and which will be referred to at a later session—and changes in the exchange rates of national currency and also industrial and trade promotion measures.

Last, but by no means least, trade responds to differences in productivity, price and cost trends in the trading partners. Now, before going to the chart presentation I would briefly refer you to the two tables in the text; table B on page 5, which summarizes the changes in our exports to the United States by certain principal commodities, and table C which does the same thing for imports. You will note that apart from exports of automotive goods, the main growth in Canadian exports to the United States has occurred in other end products which include machinery and many other items.

Senator Grosart: You use the terms "end products" and "fabricated products," are they synonymous?

Mr. Wenaas: No. As a matter of fact, at the previous session, Mr. Burns had a presentation indicating the definition of the various principal categories of trade. In general, fabricated materials include such items as newsprint, lumber, metals and alloys and so on which require further working before they can be used either by consumers or by business. End products are items which are in their final form, such as automobiles or machinery and do not require any further work performed on them, although they may be assembled to form something else.

The Chairman: In other words, a gear would be an end product, even though it must be installed in a machine to be used?

Mr. Wenaas: Yes, that is right.

The Chairman: While we are on that point, would it be fair to say that in many cases the processed products would not lend themselves necessarily to end product development before export?

Mr. Wenaas: Yes.

The Chairman: Not in all cases, probably.

Mr. Wenaas: A couple of examples were, in fact, cited by Mr. Burns at the last session. One of these items was lumber, the end product of which, of course, would be a house or a building and in general it is difficult to export buildings.

The Chairman: Wheat and coal.

Mr. Wenaas: The other major example was newsprint, the end product of which would be a newspaper, so newsprint has to be exported in fabricated form, since it would be rather unusual if Canada were able to export a great deal of newspapers.

Senator Grosart: I am afraid I am still confused, because you say that an end product which would wind up in a house would only be an end product if it were a house.

Mr. Wenaas: Right.

Senator Grosart: Which category would fully finished lumber fall into?

Mr. Wenaas: It would fall under fabricated materials.

Senator Grosart: What about a tap for a sink?

Mr. Wenaas: A tap for a sink would be in the end product category. It is conceded that there is some inconsistency or some difficulties on the fringes in the classification of certain commodities. Now, we did not make the classification system; it has been developed over a considerable period of time. However, I quite agree with you that there are difficulties on the fringes.

Senator Grosart: Excuse me; but are there official definitions of these items that are used?

Mr. Wenaas: Yes.

Senator Grosart: Could we get them, Mr. Chairman? I am confused over and over again in this regard.

Mr. Wenaas: This was included in the presentation last time.

The Chairman: We have a good volume of material from, I believe, two meetings ago, at which you were not present.

Senator Grosart: I looked over it, buy I do not remember these definitions in definitive terms. Statistics ara not of much use unless we know what they cover. In my opinion, it could be very simple in terms of all components of a house or all components of machinery.

Mr. Wenaas: Take the example that you cited: the lumber, although it is finished lumber, before it can be incorporated into a house will often have to be cut, you see, while the tap of which you spoke is already, in a sense in finished form and has simply to be installed in something. Therefore, I would agree with the classification of lumber to fabricated materials and a tap to end procucts.

The Chairman: A sash and door would be like the tap; would that be described as a manufactured product, sir?

Mr. Wenaas: Unfortunately for my argument, a sash and door is included as fabricated materials, I am sorry you brought that up.

Senator Grosart: We can think of many other items. What about furniture that can only go into a house?

Mr. Wenaas: Furniture is an end product.

Senator Connolly: Where are these definitions to be found?

Mr. Wenaas: I do not have these definitions with me today, buy they were included in Mr. Burns' presentation at the preceding session.

Senator Connolly: There are no statutory definitions?

Mr. Burns: I believe they are definitions prepared by Statistics Canada, who are responsible for them.

Senator Grosart: Are these definitions accepted internationally by statistics authorities?

Mr. Wenaas: Canada has a somewhat different classification of traded commodities that does the United Nations but, in general, the classification system used by Statistics Canada can be fitted into the international trading classification system.

Senator Grosart: Does this create any problem in respect to tariffs?

Mr. Wenaas: No, it has nothing to do with the tariff schedule.

Senator Grosart: The definitions are specific, then?

Mr. Wenaas: The point is that both fabricated materials and end products are manufactured goods. In the United States commodities statistics various items are grouped together under the heading of manufactured goods which would be divided into fabricated materials and end products in the Canadian statistics. I personally prefer to put the two together.

Senator Grosart: My final question is that we see the words processed, semi-processed and fully processed; would these fall into both categories, fabricated materials and end products?

Mr. Wenaas: Both semi-processed and fully processed materials go into fabricated materials.

Mrs. Mahoney: The data that I have used in my tables and that I presented last week is not based upon this Canadian classification system. It is based on an internationally agreed system, in which the Canadian system has been melded at a very disaggravated level, in order that it could be agreed internationally. Therefore, in these tables when you see the term "finished" it is covering, in general, much more than is covered by "end products" in terms of the Statistics Canada definitions, which were primarily established by Statistics Canada for Canadian production, not for trade purposes.

The Chairman: Thank you, Mrs. Mahoney; it is all designed to make it easier for us.

Mr. Wenaas: That is right and it was initially developed because of the very important role of resource products in our trade.

The Chairman: Referring again to the time honourable senators, we should now allow Mr. Wenaas to complete his presentation, making notes of questions we would like to ask, so that we can proceed to a broader line of questioning by all members of the committee, because I know there will be many questions for these witnesses.

Mr. Wenaas: If I may now refer to these charts, I must apologize for their relatively small size, because they were initially prepared for another purpose and because they were intended to deal with our exports I do not have similar charts for Canadian imports. These charts deal with the indexes of volume of our exports to the United States. They eliminate the effect of price and deal with physical volumes. I must say also that you should ignore the bottom line on these charts. They refer to something entirely different. I will not attempt to explain what it is.

The Chairman: Have you, for the record, identified that chart, so that it will be readily discernible to someone who reads the record later?

Mr. Wenaas: The first chart deals with the volume index of domestic exports to the United States. The other point I wanted to make, which applies to all of the charts, is that unfortunately the scale varies from chart to chart and accordingly you cannot tell exactly, from the angle in all cases, the rate at which a particular export has grown in volume. I will therefore try to refer to this as I go quickly through them.

The Chairman: Before you go further, have you many charts of that nature?

Mr. Wenaas: I have thirteen pages.

The Chairman: I am wondering, honourable senators, to what extent we will be able physically to get these reproduced and put in the record. It will be very expensive.

Senator Grosart: Let us first see what they are.

The Chairman: It makes a difference in the type of presentation for the record. If we are going to reproduce them and include them in the record, then each time the witness refers to one he should refer to the title of it so that a reader can identify it easily. I really have to ask the clerk if they can be reproduced.

Senator Grosart: Let us decide that later.

The Chairman: We shall assume that they are going to be included in the record. Please refer to the title of each page so that your verbal evidence can be identified.

Note: *The charts referred to hereinafter have not been reproduced in the printed record as that was not feasible, with one exception.*

Mr. Wenaas: I will do that. I shall go quickly through them, because they are designed to simplify our understanding of what has taken place. The first chart, at the top of the page, is a summary chart. It shows the volume index of Canadian domestic exports to the United States. You will see that the volume of Canadian exports from about 1961 has increased about four times. It has risen from about 100 to 400. I should also add that these charts go up to about the middle of 1974. They have not been updated.

The second chart, on this page, is a volume index of domestic exports excluding motor vehicles and parts. It will be seen that the total volume of our exports from about 1961 is about 2.5 times higher than it was in 1961.

On the next page, the two charts were reversed when they were attached. I will begin with the chart at the bottom. It is a volume index of farm and fish products exported to the U.S.A. It goes back to 1953, and you will see that the general trend has been about the same or slightly downward. I should say that all the humps here represent the quarterly changes. These are quarterly data. Accordingly we have sharp changes in the exports from one quarter to another because of the seasonal factors. The trend is, in fact, slightly downward.

Up here we have a volume index of fish and fish products to the United States. Here also there has been relatively little change. One would have to say that in the 1970s there has been a slight downward trend in volume.

Page 3. A volume index of wheat and wheat flour exports to the U.S.A. was included here, but our exports of wheat and wheat flour are not important. So it should really not have been prepared. However, it shows little change.

In the case of the volume of other farm products exported to the U.S., there has similarly been little change. There has been a reduction in the seasonal fluctuation, but it would be pretty difficult to establish that there has been any real change over the period from 1953.

Senator McNamara: Mr. Chairman, on wheat and flour, of course, the Americans have put a quota. It is pretty well closed . . .

The Chairman: They also produce much of their own.

Senator McNamara: No, they take much more of ours because of the quality; they like our quality.

Mr. Burns: There would be a similar flat line if we were considering imports into Canada.

Mr. Wenaas: The point was made earlier that there is relatively little trade between the two countries in agricultural products. The next chart represents the volume index of other farm and fish products exported to the U.S.A. It starts in 1970 and there is no pronounced trend that I can see.

We now come to some sectors where we can see more clearly a pronounced upward trend. Here is the volume index of forest products exported to the U.S.A., again starting with 1953. There is an upward trend. The volume of forest products has almost doubled from 1953 to 1974. It will be seen that there are fluctuations. Some of those fluctuations coincide with recessions or periods of slower growth in the United States.

Senator Grosart: Is that all forest products?

Mr. Wenaas: Yes, this is all forest products.

Senator McElman: There was a great fluctuation at the time of the change in the exchange rate.

Mr. Wenaas: These are volume figures.

Senator McElman: I realize that. The volume changed very substantially at that time.

Mr. Wenaas: Well, I do not see it. There was a major change in the exchange rate in this period.

Senator Connolly: What period was that?

Mr. Wenaas: Around 1961.

Senator McElman: It flattened out substantially.

Mr. Wenaas: It was fairly flat before. All right. It is true that after the devaluation it does appear that while the trend in the volume of forest products was relatively flat before, it began to achieve a somewhat higher rate of growth; but it would be difficult to know whether this was due to the exchange rate.

The Chairman: You are including in forest products, I take it, pulp, paper and newsprint?

Mr. Wenaas: That is right. The next chart shows the volume index of newsprint exports to the United States. While there is a consistent upward trend, it is not as strong as for total forest products. This shows a period in the 1950s in which the rate of growth in volume was relatively slow, up until the early 1960s, followed by a stronger period in growth up to 1966, and then a levelling off in the volume of newsprint exports.

Senator Grosart: What is the reason for that? Is it import substitution or competition from Scandinavian countries?

Mr. Wenaas: It is not the latter, in any event, because Canadian newsprint has held its share of the U.S. market throughout this period. I expect—and here I am venturing into an area where my knowledge is limited—I would expect that it has to do with a slower rate of growth in the consumption of newsprint in the United States.

Senator McElman: There is also the factor of the jack pine forests in the southern United States coming into maturity on a continuous yield basis.

Mr. Wenaas: That is right, although I believe the share of imports in meeting total demand in the United States has been quite well maintained.

This chart deals with the volume index of softwood lumber exports to the United States. This gives a distorted picture because the scale is quite different than in the other charts. In fact, this line represents a rise from about 60 to over 240. There has been a sharp rise in the volume of exports of softwood lumber to the United States.

There is an additional chart on which we have examined in some detail this part of the overall picture.

Senator Connolly: It shows a drop in the same period.

Mr. Wenaas: That is right.

The Chairman: "This part," being 1974, or the end of the chart?

Mr. Wenaas: That is right. The relationship of the increase and then the drop in the volume of lumber exports to housing starts in the United States will be shown.

Senator Grosart: What does the lateral scale represent?

Mr. Wenaas: This is an index where 1961 equals 100. The export volume of softwood lumber has risen from an index of about 75 up to about 225, representing a threefold increase rather than a fourfold increase as I indicated earlier.

The next chart represents the volume index of woodpulp exports to the United States. Here again, the scale is somewhat misleading. In fact, the volume of exports of woodpulp has risen from about 70 to around 200, or 190, which is also a very substantial increase.

The next chart shows the volume index of metals and minerals to Canada. Here again, the scale is a little misleading. We start from a level of perhaps 75 and rise up to around 275, which is nearly a fourfold increase. Again, this is a very substantial increase. However, you will notice that there are substantial differences in the rates of growth in volume terms of the different minerals. This chart refers to the volume index of iron ore exports. As you can see, there is a very pronounced seasonal fluctuation but in fact there has not been a very pronounced overall increase in the volume of iron ore exports to the United States.

Senator McElman: What is the time frame represented in that chart?

Mr. Wenaas: The data for this chart begin in 1956.

Senator McElman: And the same applies for the one above?

Mr. Wenaas: The one above begins in 1953. In general, the data for these charts begins in the middle 1950s.

Senator Grosart: What is the reason for the static growth in iron ore exports? It seems to me that the other statistics show a pronounced increase in our production of iron ore in that period, and this goes back to the days before Shefferville. Has there been a great increase in domestic consumption in that period?

Mr. Wenaas: There may be something wrong with this chart. Perhaps there is more of an increase in the volume than is apparent from the chart. The point I am trying to establish is that it is not nearly as pronounced as for all metals and minerals.

The next chart represents the volume index of primary iron and steel, and this shows a much more consistent upward trend and a very substantial increase in the volume of exports to the United States. Of course, we recognize that primary iron and steel is a more processed form of the iron ore.

Senator Connolly: Would that, for example, include pellets?

Mr. Wenaas: Pellets would be included in iron ore.

Senator Connolly: And not primary iron and steel?

Mr. Wenaas: No.

Senator Grosart: Pelletizing is just a way of packaging.

Mr. Wenaas: In the case of primary iron and steel there certainly has been more than a doubling of the volume in exports to the United States.

Senator Grosart: Would this indicate that we are processing a great deal more of our own iron ore and importing it semi-processed? That seems to be the answer there.

Mr. Wenaas: I looked at these data and that is right. The proportion of our iron and steel products exported in the form of iron ore has fallen over the period.

Mr. Burns: It is still very much larger than our primary iron and steel exports.

Mr. Wenaas: Yes.

The Chairman: Would I also be correct in saying that we are now supplying a higher percentage of our domestic finished iron and steel requirement within Canada, which will have an effect on that export of iron ore not having increased that much?

Mr. Wenaas: That is right.

Senator Grosart: Do you know in what year we became net self-sufficient in iron ore?

Mr. Wenaas: No, I do not know.

Senator Grosart: At one time we used to import from the Misabi.

Mr. Wenaas: Right.

Senator Grosart: It really does not matter, I was just wondering. It must have been 1950 to 1955.

Mr. Wenaas: In the early '50s, yes.

Senator Grosart: It was when the iron ore companies started to produce iron ore in Quebec.

Mr. Wenaas: Right.

Senator Grosart: When the Misabi was running out.

Mr. Wenaas: Yes.

Now, this next chart is the volume index of copper, nickel and products exported to the United States. It is interesting to note that there is a slight upward trend, but it is not a very pronounced one. This next chart shows the volume index of aluminum and products exports. There are essentially two periods, one throughout the 50s in which, if anything, the volume of our exports of aluminum and products to the United States was declining. This was followed by a general period of recovery but with very big fluctuations from quarter to quarter and from year to year. Over the whole period, the volume of our exports of aluminum and products exports to the United States has approximately doubled.

The next chart is the volume index of lead, zinc and products exported which shows a similar picture to that for aluminum in which there was a period of, shall we say, stagnation in exports in the 1950's followed by a recovery in the latter 60s.

We now come to one of the more misleading graphs. It shows the volume increase of crude petroleum and natural gas exports to the U.S.A. It shows the volume of crude petroleum starting at about 50 and increasing to over 600. This is really a very sharp increase but because of the scale used on the chart, the increase does not seem to be very great. Of course, this increase is something we are well aware of.

Senator Grosart: Are the numbers the same on both sides of that chart?

Mr. Wenaas: They are, although I have been noting that on some of these charts the numbers do not always match up precisely. This one is all right. The 200 on this side is on the same level as the 200 on the other side.

This next chart indicates the volume index of other metals and mineral exports to the United States. This shows a general decline until 1973. I must confess I do not know what this line shows. It is a curious thing which I did not have time to look into. It may be, in fact, an error. I do not know.

The Chairman: That is the upsweep at the end of the chart you are referring to?

Mr. Wenaas: Right.

Before I go to the chart at the top, perhaps I should just conclude with other fabricated materials. This chart shows the volume index of chemicals and fertilizers. The scale, again, is a little misleading. There was a fairly consistent and strong increase in the volume of exports of chemicals and fertilizers to the U.S., starting from about 100 in 1962 and approaching 400 at the end of the period.

This chart gives the volume index of aircraft and parts exports. This begins in 1961 and you can see here that although there have been substantial fluctuations, there again has been a fairly strong upward trend from about 100 in 1961 to around 300 at the end of the period, which means a threefold increase.

There is only one more chart and then there is a further table on lumber exports.

Here we have two summary graphs which are particularly interesting, I think. The first one shows the volume

index of other manufactured goods, excluding motor vehicles and parts. Of course, this includes the machinery items that I was referring to. It includes communications equipment. It includes all the other end products that we were considering earlier.

You can see there has been, in fact, a very sharp increase. Unfortunately this chart only begins in 1969 but there has been a very sharp increase in the volume of exports of other manufactured goods since 1971 from an index of around 400 up to around 700, which is an increase of about 90 per cent in a period of approximately three years. This index excludes motor vehicles.

This chart gives the volume index of other manufactured goods exported to the U.S.A. including motor vehicles. This chart deals with a longer period and of course here again, because of the sharp rates of increase, we have had to reduce the scale. There is an increase from an index of about 100 to an index of around 1600 in 1974, which means a sixteenfold increase.

This next chart is an attempt to explain the drop in the volume of lumber that was shown in 1974, at the end of the period. This solid line shows housing starts in the United States by quarters.

The Chairman: Could we give this some form of designation or title?

Mr. Wenaas: It could be entitled "Relationship Between Housing Starts in the United States and the Volume of Canadian Exports of Lumber to the United States".

The Chairman: If we could print that on the chart at the time of reproduction it would be of assistance.

Relationship between Housing Starts in the United States
and the Volume of Canadian Exports of Lumber to the United States
Housing Starts
Lumber Exports
Housing Starts (Seasonally Adjusted at Annual Rates) (Thousands of units)
Exports of Lumber (Seasonally Adjusted at Quarterly Rates) (Millions of Dollars)
2400
2200
2000
1800
1600
1400
1200
1000
800
240
220
200
180
160
140
120
100
80
1971
1972
1973
1974
1975

Mr. Wenaas: Yes. The solid line shows the number of housing starts in the United States by quarter, starting with 1971. These are seasonally adjusted numbers and you will note that there is an increase up to the end of 1972, then a stabilization in the middle of 1973. The broken line shows the physical volume of exports of Canadian lumber to the United States. You see a close parallel in the period of increase in housing starts in the United States. There is an increase in the volume of lumber exports from Canada to the United States. Then, when housing starts drop off precipitously in the United States in the latter part of 1973 and continues to do so throughout 1974, we see a similar drop in the volume of exports of Canadian lumber to the United States. We see also that there has been a similar recovery in both of these factors, a recovery in housing starts in the United States, preceded somewhat by a recovery in the volume of exports of Canadian lumber.

Senator Grosart: Is that all lumber, or just housing lumber?

Mr. Wenaas: It is all lumber. It is quite clear, of course, that Canadian lumber goes to the United States for non-residential purposes also. This is just for purposes of illustration. That concludes that part.

Senator Grosart: A final question, just to confuse me further! How do you relate the phrase "manufactured goods" to some of our definitions, such as "end products", "fabricated products" and so on?

Mrs. Mahoney: The term "manufactured goods" is the one I have used. I have an absolute definition of all the products covered on the basis of an international commodity classification which I can make available without any problems at all.

Senator Grosart: But this does not necessarily have the same content as these other phrases.

Mrs. Mahoney: End products would be included in some manufactured articles; some manufactured articles would be regarded as fabricated products in the Statistics Canada classification.

Senator Grosart: Is a barrel of apples a finished product? Taking the general phrases used, we have charts and statistics showing end products, manufactured products and so on. I wonder why you do not all get together on some of these definitions.

Mr. Wenaas: I can explain some of the reasons for the use of these different terms. These charts were developed from special tabulations of data that have been done quarterly for the Bank of Canada. We have used some of the data that has been put on computer tape for their purposes. Fabricated materials and end products together comprise manufactured goods. The category of "other manufactured goods", shown on these charts would include all fabricated materials and end products, except for those that have been included in forest products, or metals and mineral products, or chemicals and fertilizers.

Senator Grosart: Or agricultural products.

Mr. Wenaas: Or agricultural products.

The Chairman: Mrs. Mahoney just referred to a table that she will let us have. However, rather than including it in the record at this point, where it might be a little disjointed, I believe we should return to the topic of these classifications and have Mrs. Mahoney explain them at a later time, when the table may be inserted.

Senator Grosart: Mr. Chairman, I recognize the problem, because, after all, "manufactured" means "made by hand".

Senator McElman: Mr. Chairman, that table could be provided to us before it is included in the record, could it not?

The Chairman: Yes, it will be provided to us, but if the members of the committee agree we will not enter it in the record now.

Mr. Wenaas: I will conclude by making reference to some of the tables contained in the rather bulky document which was distributed. *Note: Document identified as Exhibit "A".* I begin at table 1, at the back; tables 1 to 5 show Canadian exports to the United States from 1960 to 1975, for about 150 major commodities. Table 1 is a summary; table 2 shows a breakdown for the food, feed, beverages and tobacco category; table 3, for the crude materials, inedible category and so on.

Senator Grosart: Why do you use the phrase "Canadian exports" in one table and "Canadian domestic exports" in another? I think I know the answer, but I would like to hear it.

Mr. Wenaas: In table 1 the data include both domestic exports and re-exports, while in the other tables the data include only domestic exports, except for the totals. You will see a footnote to indicate that we have included the re-exports in the totals for each commodity group.

Senator Grosart: Overrall, what is the percentage relationship in all our exports between domestic and re-export?

Mr. Wenaas: In 1975 re-exports were approximately three per cent of our total exports. However, we do not have the commodity data for re-exports, which is why we have shown them separately.

Senator Grosart: Our level of re-exports would be very low compared to those of some European countries, would it not?

Mr. Wenaas: Yes. As I said, tables 1 to 5 include detail on our exports to the United States; tables 6 to 10 provide similar detail for our imports; table 11 shows the changes in the price index of domestic export commodities from 1960 to 1973; table 12 shows similar data from 1971 to 1974, but using the most recent price index which has been developed. Table 13 shows the same information for imports. Table 14 shows the index of volume of total

Canadian merchandise trade. This is not just with the United States, but the total of Canadian merchandise trade. Table 15 shows similar information for our merchandise exports to the United States. Table 16 shows the same information for our imports from the United States; That concludes the written material.

Senator Grosart: Is the merchandise trade the same as commodity trade?

Mr. Wenaas: Yes.

The Chairman: We should make a decision at this time about the inclusion of these tables in the record of the proceedings, or perhaps we should simply accept them as an exhibit and circulate them to the members of the committee. I would suggest that we do the latter.

Hon. Senators: Agreed.

The Chairman: They are rather voluminous. We may take some selected figures from these and put them in the record on another occasion. Thank you, Mr. Wenaas.

I apologize, Senator McElman, for being so late getting to your examination of the witnesses. It has been a most detailed presentation. I might say, Senator McElman, before you start, in case members of the committee feel that we are being pressed for time, that this is an important area of concern, to launch this part of our investigation on the subject of trade. I myself have a number of questions which I am sure we will not get to tonight. We might find that we shall want to have these witnesses back fairly soon to conclude this aspect of it. We have a volume of material here, which is hard to digest in this length of time. I thought I would mention that, Senator McElman, because there may be others who have questions. They can be assured that we will come back to this subject.

Senator Carter: Are we going to deal with the question of productivity and pricing ourselves out of the market that was raised at the last meeting?

The Chairman: Yes. That has not been part of this presentation. I thought it would be today, but I was mistaken.

Mr. Wenaas: I discussed this matter with Mr. Dobell. I thought it was understood that this kind of presentation would relate to this central question. The conclusion from the very substantial increases in the volume of our exports to the United States, particularly in the area of machinery, et cetera, would seem to suggest that during the bulk of this period we were not in fact pricing ourselves out of the United States market.

Another rather general conclusion, it seems to me, is that it is difficult to be able to identify any evidence of this occurring in the trade statistics to date.

The third observation might well be that the effects of changes in our competitive position, whether it might be from devaluation of the Canadian dollar, which occurred in 1960 or 1961, or of reductions in the U.S. tariff, are realized only in the long run. It will be seen that the increase in our exports of machinery, has been consistent throughout the period. It did not leap upward immediately after devaluation.

Senator Carter: Mr. Chairman, I would think we would have to pursue this at another session. If we have not priced ourselves out of the market the way we have behaved, why have we not? Ther e must have been other compensating factors somewhere that we would need to explore.

The Chairman: That is possibly something we could discuss in the committee. I expressed concern last week that I did not see myself how it could really be proven in a statistical fashion. However, with the assistance of this information we should go on with Senator McElman's questioning.

Senator Carter: I wanted to make it plain that what I had in mind was that during this period other things have happened. The American dollar has been devalued and all sorts of things have happened which have been in our favour and have compensated for our decreased productivity. This needs to be explored more fully than we can do today.

Mr. Wenaas: Mr. Chairman, if I might reply briefly to that point, the overall trend in the period has been that productivity has increased somewhat faster in Canadian manufacturing overall than in U.S. manufacturing throughout this period. On the other hand, unit labour costs have increased somewhat faster in Canada than in the United States. That is, wages have increased somewhat faster on the average throughout the period in Canada than in the United States—more than compensating for the increased productivity. However, despite this, our exports of machinery and equipement have risen very strongly.

The Chairman: You make those statements as matters of fact. If they are matters of fact, you must have some facts on which you base that judgment. Have you statistical evidence relative to Canadian worker productivity and average Canadian wage scales that you could let us have?

Mr. Wenaas: I did not bring those ...

The Chairman: I think that is probably what you are looking for, Senator Carter.

Senator Carter: Yes. I am trying to avoid someone drawing the conclusion that we cannot price ourselves out of the market, and if we have not done so now, there must be other reasons for it that we have not pinpointed. No one should assume that we have managed to expand despite our lower increased costs and lower productivity and that we can go on doing that indefinitely.

The Chairman: It is statistical information that underlines the statements just made by the witness that you would like?

Senator Carter: Yes; and I would like to explore them.

Senator McNamara: And the period of time. I would think the wage aspect, particularly, goes back to the last 12 months.

Senator Carter: We would have to explore the behaviour of all the other factors during that period which we have covered.

Senator McElman: I first want to say that the volume and quality of material placed before us today is tremendous. It will take a good deal of study to digest it. If I could follow through on what Senator Carter has said, I had expected that we would deal with several main subjects here today and the part that each played in the trends of our trade with the United States over the last several years.

We have had very good evidence with respect to what has been happening under GATT, particularly since the Kennedy Round. I had expected more reference to what happend with the changes in the exchange rate, both in 1961 and 1971, and also wages and productivity. As a matter of fact, I came prepared to deal principally with the subject of wages and productivity, as well as the weight that has been given in the witnesses' comments to the relative rates of economic activity between Canada and the United States over the last few years.

If you have questions you would like to put, Mr. Chairman, I would just as soon you proceeded with them in the time that is left, and I will come back to the subject of wages and productivity when we can make it a main subject.

The Chairman: I think the volume of very useful and vital information that we have received from the Department of Industry, Trade and Commerce these last two or three meetings is such that we are probably going to have to give it some thought within the committee and come back to the department with requests for information and material which might tend to wrap it up, at which time we can pursue some of the questions of Senator McElman and Senator Carter. That might be a good way of finishing off the meeting today.

Senator Carter: While we are on that, one question in my mind is the effect on our trade of man-hours lost through strikes.

Mr. Wenaas: Certainly the strike in the forest industry has substantially reduced our exports.

Senator Carter: I was thinking of that when you were showing us the fluctuations.

Mr. Wenaas: In fact, I should have indicated that the reversal of the rise in the exports of lumber is largely due to the strike in the B.C. forest industry.

The Chairman: Have other members of the committee observations relative to suggestions or requests as to what information our witnesses might bring back to us? If not, there are one or two points which I want to put before our witnesses before we adjourn. We will be coming back to this subject.

I apologize to our witnesses for the fact that these points are not very specific. In putting them before you, I should like you, first of all, to see whether the statistical information is available and, secondly, whether it can be put together in such a fashion as to be of assistance to the committee.

Dealing with the statistical evidence, I am wondering whether we should not make some comparisons between the United States tariff rate on a given product—I am thinking particularly of products in the manufacturing areas—as opposed to the Canadian tariff rate on that same product, with a view to determining whether in certain areas we use a much higher level of protection to try to foster a Canadian industry than is used by the United States to protect American industry.

To give you one example, I saw on one of the charts that the United States tariff against Canadian manufacturing in pleasure boats ranged from 2 to 10 per cent. I believe our tariff against American pleasure boats is very much higher than that. I may be wrong.

Mr. Burns: I think it is somewhat higher. I would not say very much higher but it is somewhat higher.

The Chairman: Of course, other things come into it but I know in Vancouver if you go to buy an American pleasure boat, you have to add 40 per cent to the price. That may not all be tariff but it gets in there somehow.

My point is: Do we protect ourselves in some industries, because of our requiring protection in the Canadian manufacturing market, with a significantly higher tariff against the imports of those product lines than the Americans do against us? Is there a relationship there that we should look at?

Am I correct that in negotiations on tariffs you do not necessarily try to arrive at a balance in trade, item for item?

Mr. Burns: That is correct, sir.

The Chairman: You are not worrying that in watches, for examples, they are importing more than we are. You are looking at it more broadly?

Mr. Burns: The only exception to that, Mr. Chairman, would be in some of the agricultural sectors. I am not sure for what historical reasons but we have attempted to negotiate matching tariffs.

Senator McNamara referred to the pork tariff and that happens to be indentical in both the Canadian tariff and the U.S. tariff. There are a number of cases of that kind in the agricultural sector but that is the only sector in which an attempt has been made to match, as between the Canadian and U.S. tariffs.

The Chairman: At some point, we will have to deal with the question that Mrs. Mahoney raised, and this is not a statistical matter so I do not know how we will deal with it. In cases of significant tariffs on manufactured goods, where we appear to be exporting in a comparatively small quantity of something, if that tariff was not there that quantity might increase very largely so that the amount of trade that is possible becomes then a value judgment, not something you can deal with specifically.

You may have views to express on that, or some form of statistical evidence from previous experience or from when tariffs drop; I do not know. However, it is something that you might consider and let us know if you can be of any help in that area.

My remaining point is a statistical analysis of what volume of our exports of raw materials, and processed products for that matter, would reasonably be capable of a higher level of processing before they were exported. I say "reasonably" because we have heard some evidence already, and quite properly so, from Mr. Wenaas and yourself the other day, where you gave several good examples that it is not really something we should complain of. For example, we are exporting coal and it doesn't lend itself to upgrading.

I am beginning to understand, from some of the information we have had from you during the last two or three weeks, that there is a higher level of processing, suitable to the commodity concerned, going on already, than I had realized. In other words, we may be less the hewers of wood and drawers of water that we think we are. I would be interested in statistical evidence.

If you were to take the dollar volumes or tonnage volumes—I suppose dollar volumes would be the easiest

method—in a range of products and say, "Lumber does not permit much improvement in this area; coal does not permit much improvement; oil does not and gas does not. However, aluminum does", and so on, we might be able to come up with some ball park figures.

Senator Carter: Did you say that coal does not lend itself to all sorts of processing?

The Chairman: Yes, in petrochemicals and so on. Therefore, it depends upon what you are exporting it for or what the importer is doing with it when he gets it.

Mr. Burns: We might be able to make some qualitative observations.

The Chairman: Yes. I know that it involves a value judgment. For instance, in aluminum we might export millions of dollars of aluminum and someone might say, "Why not make pots and pans?" but the importer may be using only 5 per cent of that for pots and pans, and the rest may be going into something that can only be fabricated on the spot, so those would be qualitative judgments.

I think that it is essential for us to come to grips with that problem because we want to try to approach this whole subject of our trade with a very open mind and not be stuck with shibboleths, prejudices or preconceived conceptions which we or the public at large have in these areas.

Mr. Burns: Mr. Chairman, we have, although perhaps not in an articulate way, tried to demonstrate two things: first of all, that the level of processing in our exports to the United States is probably higher than it is to either the EEC or to Japan, and, importantly, this has been affected by the sharper escalation of tariff levels in those two other markets more than in the United States, although that escalation is present in the United States as well. We also have tried to demonstrate that some of the materials which are—to get into these famous classifications—fabricated materials are really, as far as one would normally expect them to be, processed before exported. There is that kind of thing.

The Chairman: You could take as a corollary from that argument, I suppose, that it might be counter-productive for us to divert too much of our trade from the United States to somewhere else, if we want to keep our manufacturing to a high level. I am not putting that forward as a conclusion, however.

Mr. Burns: It is something to look at, yes.

The Chairman: It may be that Europe and Japan are not prepared to accept as high a level of "value-added" as the American market is.

Mr. Burns: We would be better able to give you some idea about that after this current round of negotiations is over.

The Chairman: The current round of negotiations will, of course, have a bearing on that.

I appreciate that these are not points which can be reduced to final statistical form, but they are matters we will have to come to grips with and make some judgments on, and we can only make those judgments with your assistance.

Senator McElman: Mr. Chairman, the charts and tables we have certainly lay out for us the trends in the trade as between Canada and the United States, but what are the major factors which have contributed to those trends? We have dealt in some detail with the GATT arrangements related to the trends, but those are not the only factors involved; there are many factors and some of them are major. As you say, we have preconceived notions. One of my own is that the rapid increase in wages and salaries in Canada over the last few years, as related to the United States, has been a major factor. Maybe it has not. The difference in timing—the timeframe of the economic slowdown in the United States is related to our own. Again, there is the matter of exchange rates. Are the witnesses prepared today to comment on a number of major factors that have contributed to these trends, in addition to what they have already spoken on?

Mr. Wenaas: Mr. Chairman, I had come prepared to say something about that matter, but I had shortened the extent of my remarks on that because I thought perhaps we had already presented too much material.

Senator McElman: We are indebted to you for the material you have brought, sir.

Mr. Wenaas: In my view, however, and I think in the view of many people, the devaluation of the Canadian dollar in 1961, the shift basically from a premium of about four cents in the latter 1950s to a discount of about 7 cents in 1962—in other words, a shift of about 11 per cent in the value of the Canadian dollar in the United States market—was an important factor in stimulating our exports of machinery and other manufactured products into the United States market. In fact, somebody commented that one could also seem to see this in the change in the trend of our exports of certain forest products, even to the United States, in the period concerned.

The problem in attempting to measure the effect of any of these factors on our international competitive position, or on the expansion of our exports into the United States market is that the devaluation of the Canadian dollar coincided largely with the Kennedy Round, and it was partly counterbalanced by a somewhat higher rate of increase of wages in Canada than in the United States; but at the same time there was a somewhat higher rate of increase in productivity in Canadian manufacturing than in the United States.

This is a very difficult analytical problem. At the same time, it must be recognized that the initiative and the drive and the inventiveness of management is also an extremely important factor in the extent to which Canadian industry may penetrate foreign markets. It is not simply a cost factor.

The Chairman: Also the modernization of plant and equipment, I suppose.

Mr. Wenaas: Yes, modernization of plant and equipment, but also sales techniques and the type of staff employed by Canadian companies in promoting export sales of their products.

Mr. Burns is much more familiar with this broad picture that I am, but in a sense your questions relate to the core of the problem; but it is extremely difficult to answer them in a precise way. It would certainly be conceded that the margin of differnce between the current rate of wage increases in Canadian manufacturing, and those in the United States, is such that it cannot continue for very long without serious effects on our internatioal competitive

position. This has been a short-term phenomenon, however, and it is too soon to be able to identify any effects on the pattern of our trade. This disparity is perhaps on the point of being rectified in part by the control program in Canada, and in part by the fact that wage rate increases are likely to be stronger this year, in United States manufacturing, than they were last year. In other words, the margin between the two will be reduced.

Another complicating factor, of course, is that currently the Canadian dollar is near par with the United States dollar, and yet the volume of our exports of end products in fact increased in 1975 over 1974.

The Chairman: In spite of our dollar rising?

Mr. Wenaas: That is right.

Senator Carter: In connection with that point, Mr. Chairman, I was hoping you were including that in the questions you were listing for the witnesses to explore between now and the time they return. I would like to know more about how you isolate the different components of productivity. The Economic Council tells us that per man individually it is reduced, whereas there is no doubt that we are increasing productivity through better machinery, better management and, as you say, better sales techniques at the marketing end of it. I would like to know how you distinguish those factors. I do not expect the answer now, but I hope that when you return we can explore further along those lines.

Mr. Chairman, you said that we probably are not as much hewers of wood and drawers of water as we thought we were, which also surprised me. I refer to the second or third last chart with respect to fish production, which showed a decline. In my opinion, that was for two reasons: one, because the fish production itself fell because the fish stocks are being depleted, and, secondly, Newfoundland, which is a producer of raw fish, experienced a strike lasting from December 1974 to June 1975, which caused a loss in production. I do not know how much each factor influenced the decline, but they both existed. If there is one commodity or one phase of production in which the United States tariff is keeping us hewers of wood and drawers of water, it is in the fish industry. In my province the one hope that we have is to achieve a little more employment value out of our ocean resources by processing them. It seems to be all right as long as we produce the raw fish.

The Chairman: As soon as you put the batter on the fish it goes up 10 to 15 per cent.

Senator Carter: Yes, and we are prohibited from that market. That is also something with respect to which I would like to know more.

The Chairman: We have had a great volume of statistical information, including today and previous presentations. We shall be receiving more with respect to the Auto Pact on Thursday, and then on March 9 or 10 we will hear the witnesses in relation to non-tariff barriers. It may be that we should at least give consideration—and we can make this decision at the meeting on Thursday or the one following—to whether we should have a meeting of the committee in order to discuss where we are with these figures, what we have drawn from them and down what avenues we would like to go. What do you think of that, Senator McElman?

Senator McElman: Agreed.

The Chairman: That may be something we could consider, in any event. With those thoughts, I believe we should allow our witnesses to leave.

Senator McElman: Just before you do that, Mr. Chairman: all, or most of the charts which have been displayed today have shown an increase in the volume of our exports to the United States. We know that we have just experienced a rather bad year in 1975, in some respects at least. The whole purpose of our exercise is to look to the future, so let us try to condense it a little. As far as manufacturing is concerned, we do not have the economies of scale or mass production in the domestic market. We have higher cost of financing our capital in Canada and have had a higher inflation rate than the United States for several years. Our productivity rate is now in decline, and I believe the Economic Council has suggested that it will continue to decline, certainly as related to the United States. Wages are increasing and have been going to much higher levels than previously, and, frankly, I cannot understand how we are still continuing to increase in volume. What is the immediate outlook, taking into account these factors?

The Chairman: Might part of the answer to that, Senator McElman, be that while our volume of exports to the United States is increasing, agreed, their volume of exports to us is increasing even faster, because our imbalance this year is turning from a surplus to a $5 billion deficit. Would that not all be part of it?

Senator McElman: With these other factor, which certainly are not favourable to us, I cannot see the trends of the charts, in volume or in dollars, depreciating in the years ahead.

The Chairman: It is continuing.

Senator McElman: The witnesses might like to comment on where the dangers lie for us immediately ahead, and, more positively, where the opportunities lie. What are the sectors of our economy, within the current economic and tariff situation, where opportunities lie for Canadians at this point in time, only as this relates to Canada-United States relations?

The Chairman: I think that is an excellent question, but I do not think we should ask them that now. I think we should ask them to make a mental note of it and perhaps be prepared to deal with it when we return.

Senator McElman: Would you not permit the witnesses to make a general comment, if they so desire?

The Chairman: Yes, a general comment. It is such a deep question that it could well take half an hour to do it justice. Without going into it at that length, have you any brief observations?

Mr. Wenaas: I would just make one point. These charts incorporated data only up to the middle of 1974. In fact, in 1974, and again in 1975, the volume of our exports to the United States declined over all, with this decline being concentrated in fabricated materials. As I indicated the volume of our exports of end products in fact went up slightly in 1975. As to the future, that is a very big question and I would not attempt to comment on it.

Senator Carter: There is one other thing. When they come back, we should ask them to give us some idea of the time lag. How long does it take a price increase to work itself through the system so that it affects exports?

Senator McElman: I think Mr. Burns was about to make a general comment in reply to my question. Could he be permitted to do so?

Mr. Burns: Senator McElman has asked a very important question. Where are we going in the future? I wonder whether at some stage you would want to ask Mr. Jamieson to speak to you about that. I am sure he would be glad to do so. It might provide you with some background.

Senator Carter: We first want to get a little more out of you fellows.

Senator McElman: We will get to him on policy.

Mr. Burns: To come to the issues, Mr. Wenaas supplied some of the factors, but there are many others. One of the important factors that one has to take into account is that, relatively speaking exchange rates of Canadian and U.S. dollars have declined substantially over the last four or five years in relation to other major currencies. Obviously, where we are competing with the Europeans and Japanese we are in better shape than were three or four years ago. The difficulty about trying to bring this into quantative terms is that there are so many conflicting elements coming at this particular subject at one point. One cannot say that our exports have gone up because of this or gone down because of that. It is an amalgam of all those influences. I am sure we could reflect a little on the questions that have been raised and we shall be glad to consider what it is that we would be able to offer you in terms of the major factors which have been of importance. But if you ask us to quantify them and rank them in order, that becomes a more difficult question.

The Chairman: Thank you, Mr. Burns. You will perceive, and we make no apologies for it, that we are starting this study by plunging in, and we will simply have to keep going down avenues and groping our way through tunnels until we start to come up with some form in our minds.

Before adjourning the meeting, I would like to thank the witnesses for coming with such detailed information and for giving us much of their time. They are busy people with their own jobs to do, but we would like them to know that their help to us is invaluable and essential if we are to accomplish our objective. We thank you for coming and we look forward to seeing you again after we have brought our thoughts to bear on the presentation today.

The committee adjourned.

EXPLANATORY NOTES

The following tables show a selection of product categories and sub-categories, taken directly from the GATT Tariff Study, showing imports for 1971 and tariff averages based on post Kennedy Round rates (ie. usually 1973). A description of the method of averaging for tariffs is contained in Appendix I.

The EEC figures are based upon the assumption that in 1971, the EEC had nine member states (ie. including the UK, Denmark and Ireland) and that each of the member states were applying fully the Common External Tariff (CET) of the Community.

Tables 1, 2, 3, and 4 if read horizontally show the differences between the importing markets in terms of the value of imports, the value entering duty free, the significance of imports from Canada and the average levels of tariff protection. In addition if these tables are read vertically, for each of the importing entities, (ie. USA, Canada, Japan and EEC) the presence of tariff escalation can be seen as one moves from the raw material through the semi-manufactured products to finished products.

Tables 5, 6 and 7 contain a selection of product sub-categories or categories to show the difference in the import structures and tariff protection of the four importing units. These three tables are not intended to show escalation.

Note 1

Tariff average A is a simple unweighted average of tariff items within the category or sub-category. Tariff average B is weighted at the level of the tariff item by the volume of imports entering the given market (see Appendix 1).

Note 2

For tables 1 and 2 the GATT Tariff Study does not separate into ferrous or non-ferrous the sub-categories "ores and metal waste" and "metal manufactures". These two sub-categories therefore include both ferrous and non-ferrous metals.

Table 2, in addition to showing data for non-ferrous metals as a group, contains presentations that distinguish between unwrought and semi-manufactures for a number of individual metals.

TABLE 1

FERROUS METALS - IMPORTS AND TARIFF AVERAGES

1971 IMPORTS US $000

	USA	CANADA	JAPAN	EEC
Ores & metal waste				
Total mfn imports	869,103	106,635	2,281,340	1,381,165
- of which duty free	729,191	106,328	2,278,643	1,381,165
Imports from Canada	347,612	-	259,662	274,042
- of which duty free	293,235	-	259,255	274,042
Tariff Average A	4.1	2.7	0.3	0
B	1.2	0	0	0
Unworked iron & steel				
Total mfn imports	32,900	25,333	53,951	64,157
- of which duty free	18,377	5,378	-	406
Imports from Canada	22,870	-	1,919	10,501
- of which duty free	16,765	-	-	181
Tariff Average A	3.7	4.2	5.5	3.7
B	2.5	4.0	5.1	4.0
Ferro-Alloys				
Total mfn imports	86,363	10,137	11,783	57,692
- of which duty free	19,299	1,149	-	7,507
Imports from Canada	1,506	-	2	4,134
- of which duty free	421	-	-	151
Tariff Average A	5.4	5.2	7.9	4.7
B	3.2	4.4	7.0	6.4
Semi-manufactured products of iron or steel				
Total mfn imports	2,553,144	352,004	15,463	517,137
- of which duty free	33	62,735	-	173
Imports from Canada	200,181	-	71	18,714
- of which duty free	-	-	-	-
Tariff Average A	7.7	5.1	10.2	6.7
B	7.0	8.4	10.5	6.9

TABLE 1

FERROUS METALS - IMPORTS AND TARIFF AVERAGES

	USA	CANADA	JAPAN	EEC
Metal manufactures				
Total mfn imports	831,438	505,285	74,019	374,569
- of which duty free	20,689	163,638	-	-
Imports from Canada	106,559	-	2,149	15,208
- of which duty free	2,260	-	-	-
Tariff Average A	10.0	11.9	10.9	7.9
B	8.7	11.1	9.3	8.4

TABLE 2

NON-FERROUS METALS - IMPORTS AND TARIFF AVERAGES

1971 IMPORTS US $000

	USA	CANADA	JAPAN	EEC
Ores & metal waste				
Total mfn imports	869,103	106,635	2,281,340	1,381,165
- of which duty free	729,191	106,328	2,278,643	1,381,165
Imports from Canada	347,612	-	259,662	274,042
- of which duty free	293,235	-	259,255	274,042
Tariff Average A'	4.1	2.7	0.3	0
B	1.2	0	0	0
Non-ferrous metals unwrought				
Total mfn imports	1,257,336	89,569	618,432	1,903,582
- of which duty free	503,216	78,716	143,839	1,557,899
Imports from Canada	691,733	-	70,737	549,485
- of which duty free	286,865	-	21,788	434,637
Tariff Average A	5.0	2.8	7.9	2.5
B	2.1	0.5	5.6	1.0
Non-ferrous metals semi-manufactures				
Total mfn imports	284,410	129,026	36,037	167,971
- of which duty free	42,444	36,064	8,666	13,912
Imports from Canada	55,843	-	403	8,532
- of which duty free	5,123	-	-	1,234
Tariff Average A	8.0	5.4	11.9	6.5
B	4.3	4.0	10.7	7.6
Metal manufactures				
Total mfn imports	831,438	505,285	74,019	374,569
- of which duty free	20,689	163,638	-	-
Imports from Canada	106,559	-	2,149	15,208
- of which duty free	2,260	-	-	-
Tariff Average A	10.0	11.9	10.9	7.9
B	8.7	11.1	9.3	8.4

TABLE 2

	USA	CANADA	JAPAN	EEC
Copper unwrought				
Total mfn imports	331,393	32,713	343,080	1,046,772
- of which duty free	-	31,413	3,901	1,046,772
Imports from Canada	133,149	-	3,675	173,446
- of which duty free	-	-	-	173,446
Tariff Average A'	4.8	1.0	6.5	0
B	1.7	0.2	6.4	0
Copper semi-manufactures				
Total mfn imports	148,378	27,796	5,888	28,185
- of which duty free	-	874	-	-
Imports from Canada	40,571	-	1	3,567
- of which duty free	-	-	-	-
Tariff Average A	8.0	7.3	16.5	7.3
B	3.1	8.4	15.3	7.8
Nickel unwrought				
Total mfn imports	335,512	36,056	57,775	379,939
- of which duty free	335,512	35,980	41,040	379,939
Imports from Canada	285,778	-	25,216	259,623
- of which duty free	285,778	-	21,788	259,623
Tariff Average A	2.7	5.8	13.6	0
B	0	0	4.0	0
Nickel semi-manufactures				
Total mfn imports	12,635	10,281	6,785	27,114
- of which duty free	8,208	9,547	1,025	-
Imports from Canada	2,644	-	310	1,370
- of which duty free	2,178	-	-	-
Tariff Average A	8.8	4.5	12.1	5.1
B	2.5	1.0	11.2	6.2

TABLE 2

	USA	CANADA	JAPAN	EEC
Aluminum unwrought				
Total mfn imports	277,883	9,401	115,992	152,491
- of which duty free	-	1,335	-	6,848
Imports from Canada	213,318	-	41,084	71,727
- of which duty free	-	-	-	492
Tariff Average A	4.2	1.6	6.8	3.4
B	4.3	3.0	8.8	6.5
Aluminum semi-manufactures				
Total mfn imports	64,721	71,082	6,708	43,957
- of which duty free	-	7,441	-	-
Imports from Canada	6,146	-	13	810
- of which duty free	-	-	-	-
Tariff Average A	7.8	6.8	14.9	10.6
B	7.9	3.4	17.1	11.9
Lead unwrought				
Total mfn imports	48,793	4,270	537	112,060
- of which duty free	-	4,268	-	3,959
Imports from Canada	14,244	-	-	13,232
- of which duty free	-	-	-	411
Tariff Average A	8.1	9.2	8.0	3.1
B	8.6	0	6.9	4.5
Lead semi-manufactures				
Total mfn imports	436	102	228	1,258
- of which duty free	-	22	-	-
Imports from Canada	137	-	-	33
- of which duty free	-	-	-	-
Tariff Average A	7.0	1.7	15.6	8.9
B	10.8	3.9	10.8	9.7

TABLE 2

	USA	CANADA	JAPAN	EEC
Zinc unwrought				
Total mfn imports	94,132	1,291	1,584	76,630
- of which duty free	-	1,291	72	913
Imports from Canada	42,994	-	760	30,636
- of which duty free	-	-	-	509
Tariff Average A	11.7	0	5.7	2.1
B	4.8	0	6.8	4.1
Zinc semi-manufactures				
Total mfn imports	3,484	909	23	6,026
- of which duty free	-	689	-	-
Imports from Canada	2,217	-	-	4
- of which duty free	-	-	-	-
Tariff Average A	7.3	6.0	10.4	9.0
B	2.7	2.7	10.3	9.8
Tin unwrought				
Total mfn imports	167,704	4,447	98,876	119,070
- of which duty free	167,704	4,427	98,826	119,070
Imports from Canada	1,087	-	-	13
- of which duty free	1,087	-	-	13
Tariff Average A	0	3.5	1.7	0
B	0	0	0	0
Tin semi-manufactures				
Total mfn imports	122	40	17	126
- of which duty free	-	33	-	-
Imports from Canada	2	-	-	6
- of which duty free	-	-	-	-
Tariff Average A	7.6	10.0	6.3	4.8
B	6.4	2.1	6.5	4.5

TABLE 3

PULP, PAPER AND PAPER PRODUCTS - IMPORTS AND TARIFF AVERAGES

1971 IMPORTS US $000

	USA	CANADA	JAPAN	EEC
Paper-pulp & paper waste				
Total mfn imports	489,728	21,147	133,596	434,952
- of which duty free	489,728	21,147	7,883	192,782
Imports from Canada	473,409	-	66,390	209,855
- of which duty free	473,409	-	375	79,824
Tariff Average A	0	0	3.6	0.5
B	0	0	4.7	1.7
Paper & paperboard				
Total mfn imports	1,096,978	82,744	26,058	375,982
- of which duty free	998,931	20,722	-	7,295
Imports from Canada	1,025,687	-	8,500	135,555
- of which duty free	962,002	-	-	5,222
Tariff Average A	5.4	7.0	9.2	9.7
B	0.4	10.5	9.0	11.1
Pulp & paper manufactured articles				
Total mfn imports	60,633	42,745	7,582	42,953
- of which duty free	-	1,077	202	-
Imports from Canada	11,464	-	229	1,829
- of which duty free	-	-	2	-
Tariff Average A	7.0	12.6	7.6	12.2
B	6.8	16.3	7.7	12.2

TABLE 4

WOOD AND CORK - IMPORTS AND TARIFF AVERAGES

1971 IMPORTS US $000

	USA	CANADA	JAPAN	EEC
Wood & cork in the rough				
Total mfn imports	31,235	33,996	1,334,342	155,159
- of which duty free	30,854	32,702	1,333,571	150,159
Imports from Canada	20,151	-	33,929	9,795
- of which duty free	20,136	-	33,929	9,790
Tariff Average A'	2.4	3.0	0.3	2.1
B	0.1	0.1	0	0.2
Wood & cork semi-manufactures				
Total mfn imports	819,351	61,997	232,331	691,045
- of which duty free	755,326	48,142	208,404	524,228
Imports from Canada	744,312	-	55,799	108,662
- of which duty free	716,756	-	55,791	62,766
Tariff Average A	2.5	4.2	5.8	4.7
B	0.3	2.2	1.1	2.1
Wood based panels				
Total mfn imports	237,617	33,685	8,567	118,554
- of which duty free	-	-	-	-
Imports from Canada	6,441	-	194	40,113
- of which duty free	-	-	-	-
Tariff Average A	12.6	13.6	18.0	12.5
B	16.7	15.0	19.8	13.0
Wood & cork manufactured articles				
Total mfn imports	147,795	25,163	7,260	44,168
- of which duty free	57,361	5,342	-	-
Imports from Canada	60,336	-	142	2,609
- of which duty free	51,346	-	-	-
Tariff Average A	10.0	10.6	11.4	8.4
B	4.9	11.7	9.0	6.7

TABLE 5

SELECTION OF PRODUCT SUB-CATEGORIES IN CHEMICALS SECTOR
- IMPORTS AND TARIFF AVERAGES -
1971 IMPORTS US $000

	USA	CANADA	JAPAN	EEC
Chemical Elements & Compounds				
Total mfn imports	751,112	213,501	300,884	832,660
- of which duty free	374,631	79,093	78,879	162,017
Imports from Canada	164,651	-	2,951	52,857
- of which duty free	117,817	-	322	2,115
Tariff Average A'	8.8	6.1	9.3	10.6
B	5.5	7.5	7.2	9.0
Paints, varnishes, etc.				
Total mfn imports	10,124	25,587	16,798	30,884
- of which duty free	-	480	-	-
Imports from Canada	1,054	-	41	418
- of which duty free	-	-	-	-
Tariff Average A	9.5	9.4	9.1	10.9
B	7.3	14.7	9.6	11.0
Plastic materials				
Total mfn imports	117,998	185,944	72,748	339,743
- of which duty free	4,449	22,621	-	-
Imports from Canada	6,336	-	266	15,934
- of which duty free	586	-	-	-
Tariff Average A	11.4	9.0	12.2	13.7
B	8.2	11.5	11.9	15.5
Articles of Plastics				
Total mfn imports	180,095	69,099	10,970	59,452
- of which duty free	-	1,754	-	-
Imports from Canada	15,304	-	46	1,678
- of which duty free	-	-	-	-
Tariff Average A	12.2	8.7	11.7	13.1
B	8.9	16.9	14.8	16.7

TABLE 6 SELECTION OF PRODUCT SUB-CATEGORIES FROM THE MACHINERY SECTOR

- IMPORTS AND TARIFF AVERAGES -

1971 IMPORTS US $000

	USA	CANADA	JAPAN	EEC
Agricultural machinery & appliances				
Total mfn imports	184,269	123,705	15,081	25,699
- of which duty free	182,257	107,270	-	-
Imports from Canada	160,443	-	473	1,582
- of which duty free	160,139	-	-	-
Tariff Average A'	2.6	4.2	7.5	5.1
B	0.1	1.6	7.5	4.6
Office machines				
Total mfn imports	526,387	347,025	347,360	895,272
- of which duty free	87,043	27,752	-	-
Imports from Canada	81,502	-	4,259	22,325
- of which duty free	1,302	-	-	-
Tariff Average A	5.5	8.3	11.7	7.4
B	4.4	9.1	18.0	7.4
Construction & mining machinery and handling equipment				
Total mfn imports	150,442	401,560	58,766	270,657
- of which duty free	-	148,508	-	-
Imports from Canada	52,850	-	207	6,705
- of which duty free	-	-	-	-
Tariff Average A	4.0	5.8	7.7	6.9
B	5.2	5.3	7.5	8.1
Pulp & paper machinery				
Total mfn imports	42,657	45,951	22,515	17,731
- of which duty free	-	12,047	-	-
Imports from Canada	5,921	-	41	166
- of which duty free	-	-	-	-
Tariff Average A	4.9	8.5	7.5	5.2
B	4.5	5.4	7.5	5.1

TABLE 7

SELECTION OF PRODUCT CATEGORIES WITH RELATIVELY HIGH TARIFF AVERAGES

- IMPORTS AND TARIFF AVERAGES -

1971 IMPORTS US $000

	USA	CANADA	JAPAN	EEC
Clocks & watches				
Total mfn imports	189,929	27,559	34,858	33,181
- of which duty free	-	935	-	-
Imports from Canada	281	-	7	4,032
- of which duty free	-	-	-	-
Tariff Average A'	25.9	14.1	13.6	9.0
B	14.4	15.5	16.7	8.7
Toys				
Total mfn imports	288,861	62,185	34,288	157,272
- of which duty free	5	4,944	-	-
Imports from Canada	1,523	-	14	959
- of which duty free	-	-	-	-
Tariff Average A	10.9	16.7	10.8	10.5
B	13.5	18.3	13.8	12.7
Footwear				
Total mfn imports	757,837	82,146	15,675	130,535
- of which duty free	932	-	-	-
Imports from Canada	11,881	-	342	867
- of which duty free	2	-	-	-
Tariff Average A	10.4	20.6	17.4	11.1
B	10.3	24.4	15.6	15.4
Clothing & clothing accessories				
Total mfn imports	1,383,447	175,926	105,431	758,997
- of which duty free	-	-	-	-
Imports from Canada	34,687	-	30	2,060
- of which duty free	-	-	-	-
Tariff Average A	22.9	23.3	17.1	11.7
B	31.4	25.5	17.2	16.6

Appendix 1

GATT TARIFF AND TRADE DATA - METHODS OF CALCULATING TARIFF AVERAGES

Simple Average - all items

$$\frac{\sum_{1}^{i} \text{duty rates on individual tariff lines in a BTN heading}}{\text{Number of tariff lines in BTN heading}} = \frac{\sum_{1}^{i} x}{n_i}$$

Weighted Average - all items

$$\frac{\sum_{1}^{i} \text{duty rates x national mfn imports (at tariff line level)}}{\sum_{1}^{i} \text{national mfn imports}} = \frac{\sum_{1}^{i} x.w_i}{\sum_{1}^{i} w_i}$$

x = duty of tariff line

n_i = number of tariff lines in BTN heading

w_i = national mfn imports

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FIRST SESSION—THIRTIETH PARLIAMENT
1974-76

THE SENATE OF CANADA

PROCEEDINGS OF THE
STANDING SENATE COMMITTEE ON

FOREIGN AFFAIRS

The Honourable GEORGE C. van ROGGEN, *Chairman*

Issue No. 24

THURSDAY, FEBRUARY 26, 1976

Twenty-third Proceedings Respecting:

Canadian Relations with the United States

(Witnesses: See Minutes of Proceedings)

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THE STANDING SENATE COMMITTEE
ON FOREIGN AFFAIRS

The Honourable George C. van Roggen, *Chairman*

The Honourable Allister Grosart, *Deputy Chairman*

and

The Honourable Senators:

Asselin	Lafond
Barrow	Laird
Bélisle	Macnaughton
Cameron	McElman
Carter	McNamara
Connolly (*Ottawa West*	Rowe
Croll	Sparrow
Hastings	Yuzyk

Ex officio Members: Flynn and Perrault.

(Quorum 5)

Order of Reference

Extract from the Minutes of Proceedings of the Senate, Wednesday, November 6, 1974:

"Pursuant to the Order of the Day, the Senate resumed the debate on the motion of the Honourable Senator van Roggen, seconded by the Honourable Senator Riel:

That the Standing Senate Committee on Foreign Affairs be authorized to examine and report upon Canadian relations with the United States;

That the Committee be empowered to engage the services of such counsel and technical, clerical and other personnel as may be required for the purpose of the said examination, at such rates of remuneration and reimbursement as the Committee may determine, and to compensate witnesses by reimbursement of travelling and living expenses, if required, in such amount as the Committee may determine;

That the papers and evidence received and taken on the subject in the preceding session be referred to the Committee; and

That the Committee have power to sit during adjournments of the Senate.

After debate, and—
The question being put of the motion, it was—
Resolved in the affirmative."

Robert Fortier,
Clerk of the Senate.

Minutes of Proceedings

Thursday, February 26, 1976
(29)

Pursuant to adjournment and notice, the Standing Senate Committee on Foreign Affairs met at 9:35 a.m. this day.

Present: The Honourable Senators van Roggen (*Chairman*), Barrow, Cameron, Carter, Croll, Grosart, Lafond, Laird, Macnaughton, McElman, McNamara and Yuzyk. (12).

Present but not of the Committee: Honourable Senators McGrand and Haig. (2)

In attendance: Mr. Frank Jackman, General Director, Office of International Special Products Branch, Department of Industry, Trade and Commerce; Mrs. Carol Seaborn, Special Assistant to the Committee; and Mr. Robert Robichaud, Research Assistant to the Committee.

The Committee continued its study of Canadian Relations with the United States.

WITNESS: From the Department of Industry, Trade and Commerce:

Mr. Tom Burns, Senior Assistant Deputy Minister (Operations); and

Mr. C. Douglas Arthur, Special Adviser (Automotive) Trade Policy and Planning Group.

During the course of his presentation, Mr. Arthur made use of a series of charts and graphs.

At 12:15 p.m. the Committee adjourned to the call of the Chairman.

ATTEST:

E. W. Innes,
Clerk of the Committee.

The Standing Senate Committee on Foreign Affairs

Evidence

Ottawa, Thursday, February 26, 1976

The Standing Senate Committee on Foreign Affairs met this day at 9.30 a.m. to examine Canadian relations with the United States.

Senator George van Roggen (*Chairman*) in the Chair.

The Chairman: Honourable senators, I welcome, once again, Mr. Tom Burns, Senior Assistant Deputy Minister, Operations, Department of Industry, Trade and Commerce. I thank you, Mr. Burns, once again for coming here with your experts today, and apologize to you for the amount of your time we have taken in the last few weeks, but we appreciate the attention you have been giving to the committee.

This morning, Honourable senators, we are going to start with the question of the Auto Pact and then deal with the question of the Defence Production Sharing Arrangement as the Auto Pact will take a good deal more time, and they are two separate items, rather than have all the evidence tendered before questioning, if you agree, we will proceed with the evidence on the Auto Pact and examination of it, and then leave some time, towards the end of the morning, for defence production which I do not think will require as much time.

Mr. Douglas Arthur, Special Adviser, Automotive Trade Policy Planning Group, will be making an opening statement relative to the Auto Pact. Later in the morning, Mr. Frank Jackman, General Director, Office of International Special Projects, will make an opening statement on the Defence Production Sharing Arrangement.

Without further ado, I will now call upon Mr. Arthur to open relative to the Auto Pact. I might mention that Senator Croll has kindly consented to lead off the questioning, following Mr. Arthur's presentation.

Mr. Douglas Arthur, Special Adviser, Automotive Trade Policy Planning Group, Department of Industrie, Trade and Commerce: Thank you, Mr. Chairman. To place the present circumstances facing the industry in perspective, I propose to report briefly on developments in this important industry sector and then outline some of the problems which the industry must meet in the future.

In the early 1960s, the automotive industry faced the problems of manufacturing for the limited Canadian market. No matter how carefully the Canadian vehicle and parts producers managed their businesses, they faced costs higher than those of their competitors outside Canada. Costs for Canadian vehicle producers were higher than for their parent companies because of the higher costs associated with short run assembly and manufacturing operations. The proliferation of models intensified the problem of short runs.

What were the consequences of these factors for the industry and for Canada? First, and perhaps most important, costs and prices were apreciably higher in Canada than in the United States. Second, the motor vehicle industry in Canada was becoming increasingly dependant on imported components. Because of the limited volume of Canadian production it was not economical to produce parts in Canada. The trend to greater veriety resulted in even shorter production runs being available to Canadian parts manufacturers, thereby making it increasingly difficult for them to meet United States competition.

To determine the most effective means of dealing with these serious problems, the governement entered into detailed discussions with Canadian motor vehicle and parts manufacturers. After careful consideration of the various alternative courses of action, it was agreed that the problems of short runs, variety, high costs and the rapidly expanding trade balance, could best be countered by gaining access for Canadian built automotive products to the much larger total North American automotive market.

Following these discussions with the Canadian automotive industry, negotiations with the United States took place with a view to obtaining the removal of tariff and other governmental barriers to trade between the two countries. These negotiations concluded on Junuary 16, 1965, with the signing of the Canada-United States Automotive Products Agreement.

The Agreement has allowed Canada to develop a more efficient automotive industry and at the same time benefit the long-term interests of industry, labour and consumers in both countries by sustaining high levels of efficient production and continued growth in the automotive industry. It allowed for the development of an integrated North American industry and market. This was to be accomplished by effectively removing duties on trade between the two countries in motor vehicles and original equipment parts. On the Canadian side, duty-free entry was extended to Canadian vehicle manufacturers that met certain requirements.

The Agreement set forth three objectives:

> (1) the creation of a broader market for automotive products within which the full benefits of specialization and large-scale production can be achieved;
>
> (2) the liberalization of U.S. and Canadian automotive trade in respect to tariff barriers and other factors tending to impede it, with a view to enabling the industries of both countries to participate on a fair and equitable basis in the expanding total market of the two countries; and
>
> (3) the development of conditions in which market forces may operate effectively to attain the most economic patterns of investment, production and trade.

Canada's position was that the differences in size, financial strength and the relative development of our industry had to be recognized if Canada was to derive real and

reciprocal benefits in this sector. Furthermore, institutional barriers to trade as well as formal trade barriers had to be eliminated if Canadian industry was to participate effectively in the United States market. Special arrangements were necessary, therefore, to develop an environment in which the Canadian automotive industry could participate equitably in the market of the two countries. The Canadian view is that many of these institutional barriers still remain. The United States' position is that the objective of the Agreement on balance have been accomplished. This fundamental difference in approach to the environment in which the industry in both countries could develop and experience the full benefits of specialization and large-scale production was acknowledged during the negotiations that led to the agreement. This difference is embodied in the objectives of the Agreement, although all the objectives are mutually agreed. Canada's aspirations were that the liberalization of trade in this sector should be undertaken with a view to enabling the industries of both countries to participate on a fair and equitable basis in the expanding market of the two countries. In the United States' view, this could be accomplished by developing conditions in which market forces may operate effectively to attain the most economic pattern of investment, production and trade.

Before dealing in specific terms with the development of the automotive industry since the signing of the Agreement, I wish to briefly describe the circumstances that have impacted on the industry since 1973. Any trade arrangement which affects such a large volume of industrial production, employment and trade may lead to circumstances that are unsatisfactory to one or other of the parties on a short-term basis. These problems become more visible in times of economic slowdown and many of these problems have their roots in broader economic conditions.

The current and future environment for the automobile industry is markedly more uncertain than the environment that existed in the 1950s and 1960s. The United States, which represents over 85 per cent of present demand in North America, is experiencing levels of inflation and a degree of recession greater that has been experienced in the past 30 years. The energy situation has added to this economic uncertainty and has introduced general economic instabilities which have affected automotive demand directly. Since 1974, demand in the United States has been influenced by a decline in real income, record interest rate levels, increased motor vehicle prices, increased gasoline prices and consumer preference for more energy-efficient vehicles, which the manufacturers did not perceive. Changes in these factors have traditionally had a significant impact on production and sales. What is unique about the present situation in the United States is that all these negative factors occurred almost simultaneously.

In Canada, while certain of these factors were present, there has been no significant decline in disposable income relative to the cost of most consumer goods and automobile demand remained buoyant throughout this period.

Mr. Chairman, with your permission I would like to show some graphs which illustrate the situation from the signing of the agreement up to the present.

The Chairman: Yes, certainly. The record might show that these are photographic graphs being projected on a screen and, therefore, cannot be reproduced in the proceedings.

Mr. Arthur: The first graph (Chart 1, MOTOR VEHICLE SALES, CANADA (U.S. 1965-1975), Mr. Chairman, deals with motor vehicle sales, both in Canada and in the United States. Members of the committee should observe that the scale on the left-hand side of the graph is the Canadian scale; the United States scale is shown on the right. Sales in 1973, the high point that was reached in North America for automotive sales, was 14.6 million units in the United States, which was a 34 per cent increase over the level of sales in 1965. However, sales in 1974, particularly in the United States, dropped dramatically from the 1973 levels; indeed, the decline was 21 per cent. There was a further decline in 1974, and the 1975 sales figures, although only preliminary, show that the decline demand continued. In Canada, on the other hand, sales have continued to increase and in 1975 they were at a record level. Sales in absolute numbers in Canada rose from 830,000 units in 1965 to 1.3 million units in 1975.

The Chairman: Is it relevant to ask at this point what portion of those are foreign cars, or are these domestic cars only to which you are referring?

Mr. Arthur: This is total sales. The percentage of third-country automobiles in 1975 in the Canadian market was 13 per cent.

The Chairman: And the United States market, approximately?

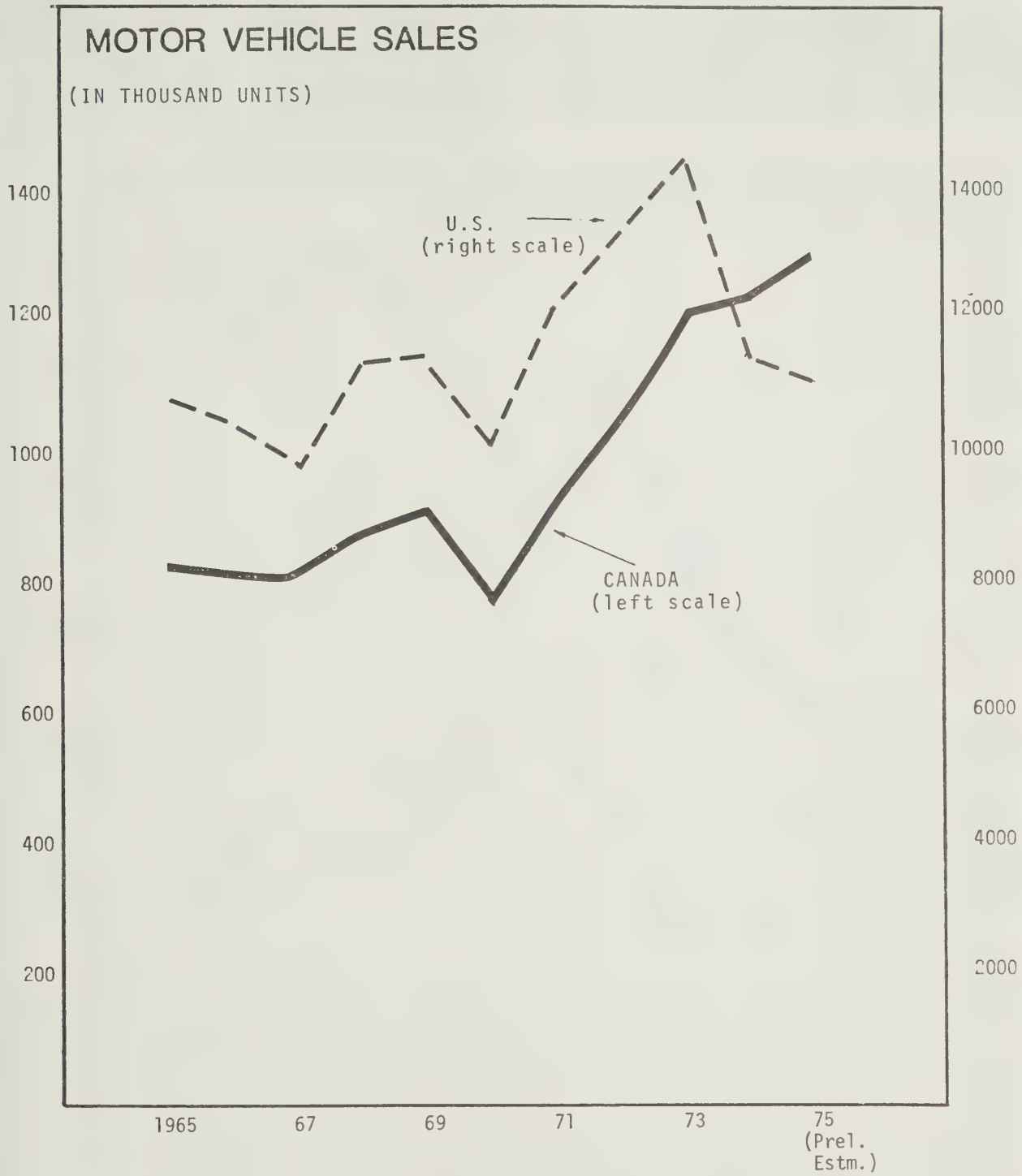
Mr. Arthur: Twenty per cent.

The Chairman: That is higher than ours.

Mr. Arthur: Yes; the percentage of third-country cars in Canada has been declining, but in the United States in the last two years third-country car have sales been increasing.

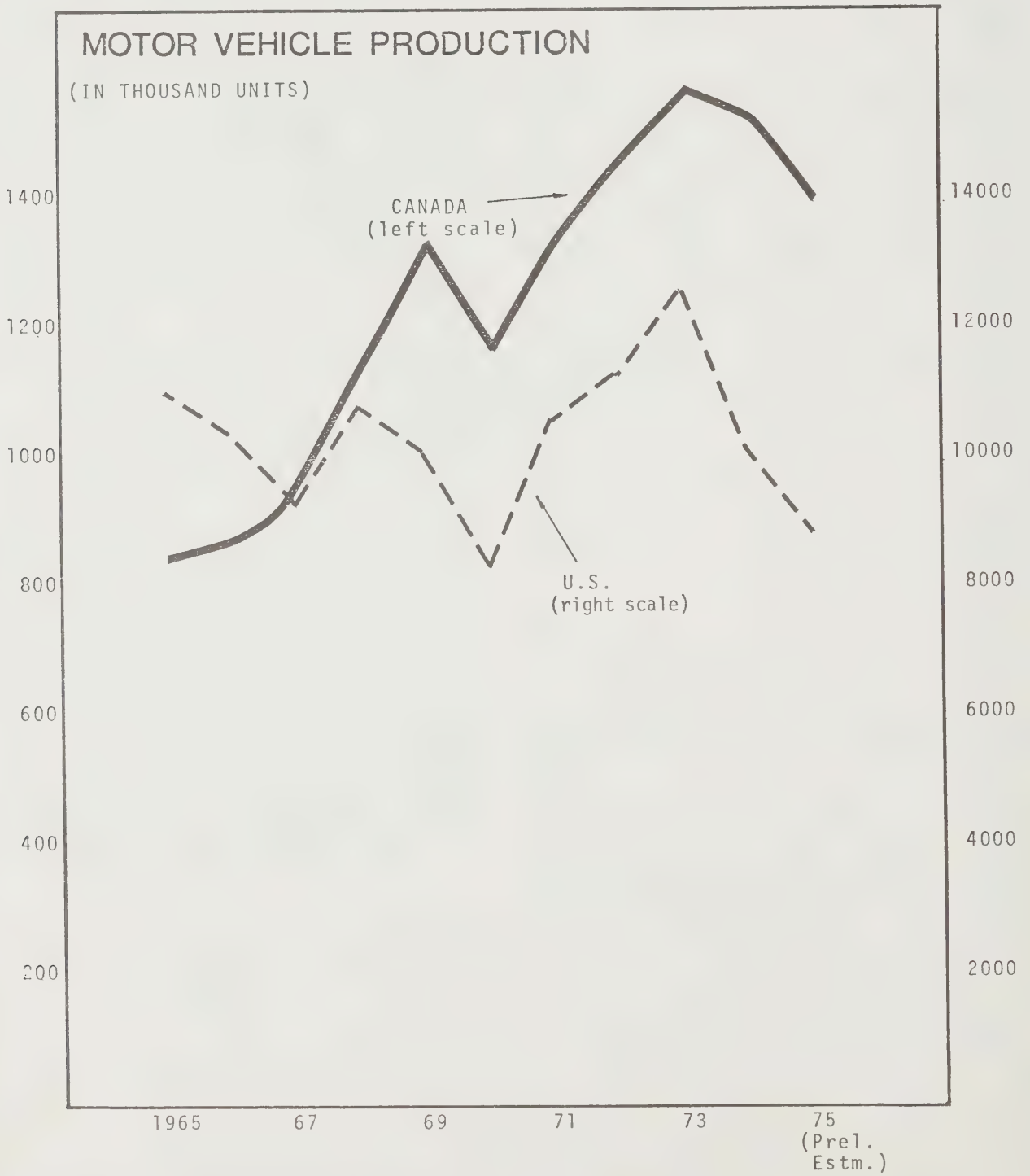
Senator Cameron: That was because of the small cars coming in from Europe, was it not?

Mr. Arthur: Yes, but mainly, from Japan; the Japanese are the largest third-country supplier of both the Canadian and United States markets.



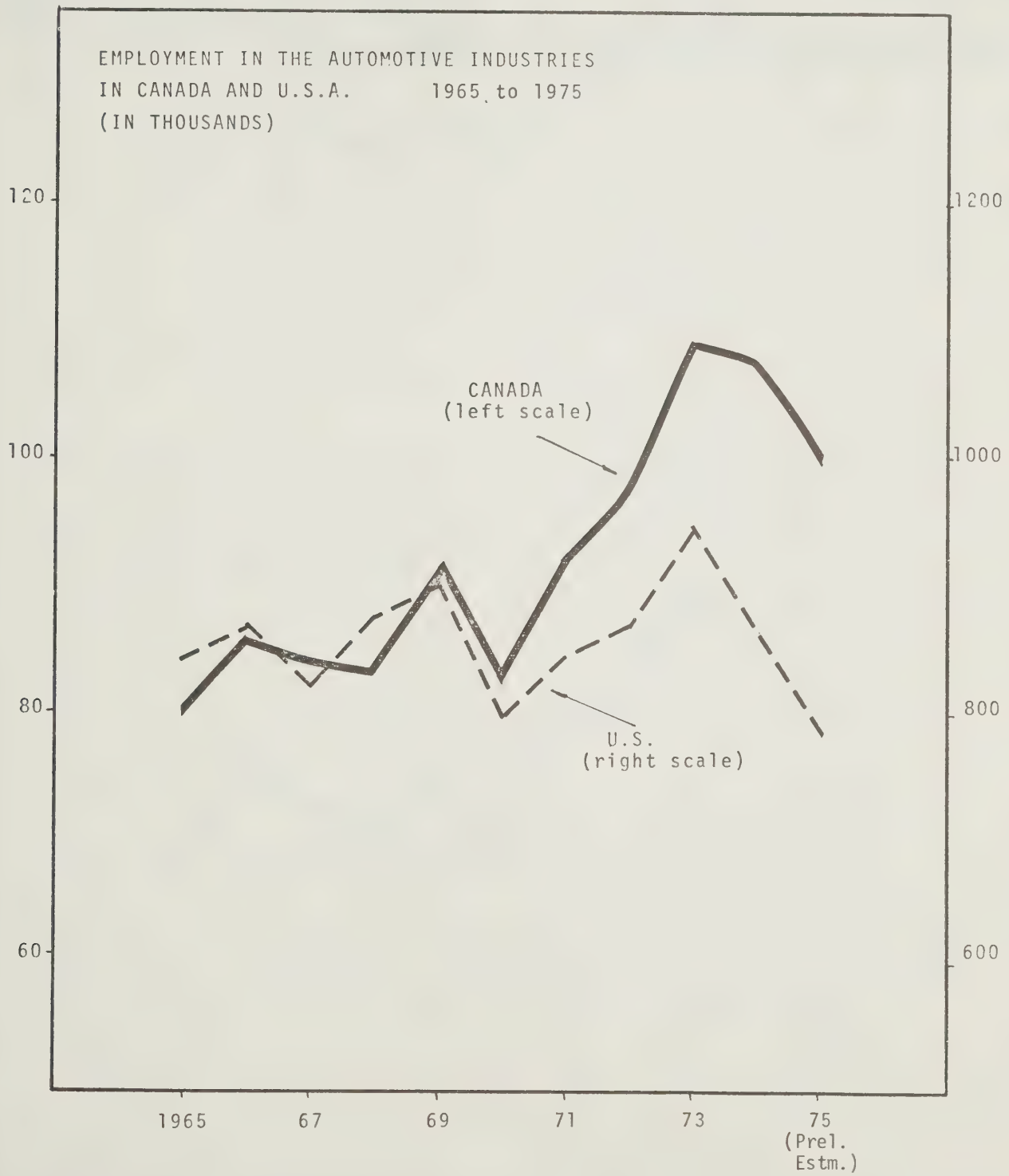
SOURCE:STATCAN. & U.S. DEPT. OF COMMERCE

Graph 2 (MOTOR VEHICLE PRODUCTION) deals with production since 1965. Again the scales are different and the United State scale is on the right-hand side. In Canada in 1965 unit production amounted to approximately 800,000 units. This includes the production of automobiles, trucks and buses. In 1973, production was 1.5 million units, for an increase of approximately 86 per cent over the 1965 level. You will notice the very substantial decline in production in the United States after the peak period of 1973 was reached. Production declined in the United States by approximately 30 per cent between 1973 and 1975 and in Canada the decline was approximately 12 per cent.



SOURCE:STATCAN. & U.S. DEPT. OF COMMERCE

Graph 3 (EMPLOYMENT IN THE AUTOMOTIVE INDUSTRIES IN CANADA AND U.S.A. 1965-1975) illustrates the employment picture in both Canada and the United States. You will notice that the United States decline in employment was somewhat steeper than that experienced in Canada. Employment in the United States increased by about eleven per cent during the period 1965 to 1973. Then it declined by approximately nine per cent each year after 1973, so that at the present time the U.S. employment level is approximately 18 per cent below the peak period of 1973. The Canadian experience is that employment peaked in 1973; followed by a slight decline in 1974; and a somewhat more substantial decline between 1974 and 1975. This has been largely accounted for by the decline in demand for automobiles in the United States.



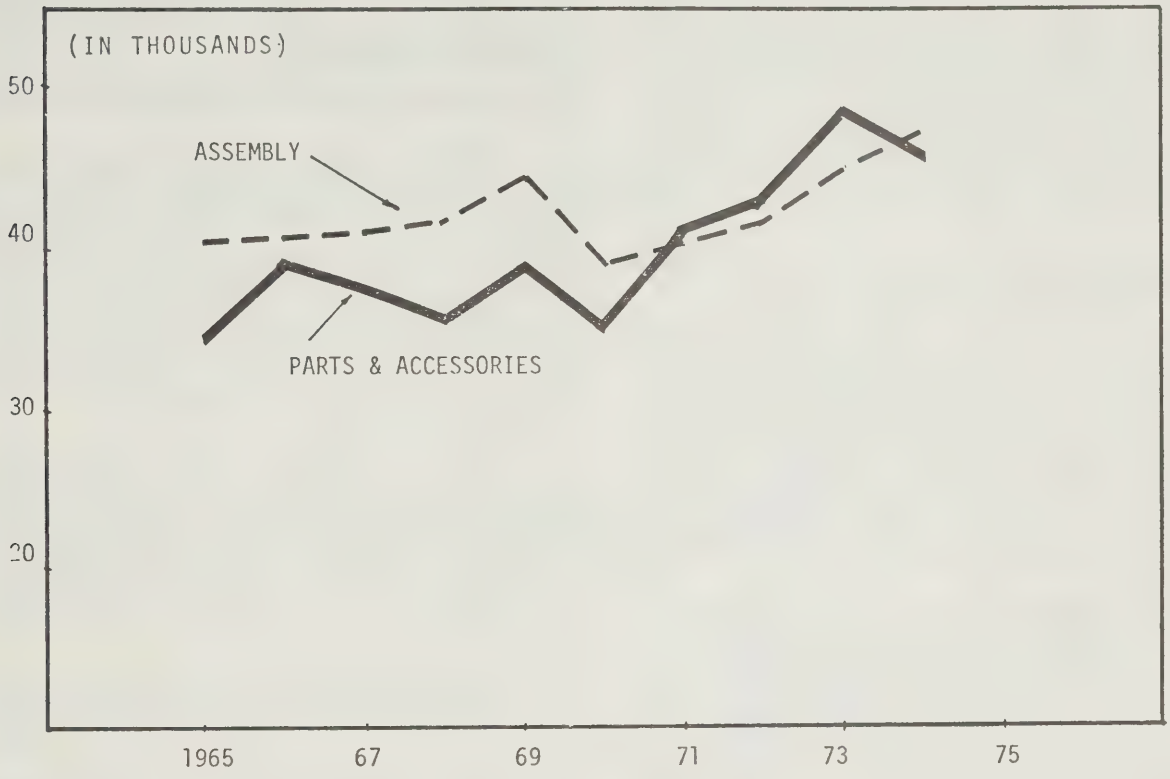
SOURCE:STATCAN & U.S.DEPT. OF COMMERCE
Canada employment figures includes Truck body sector.

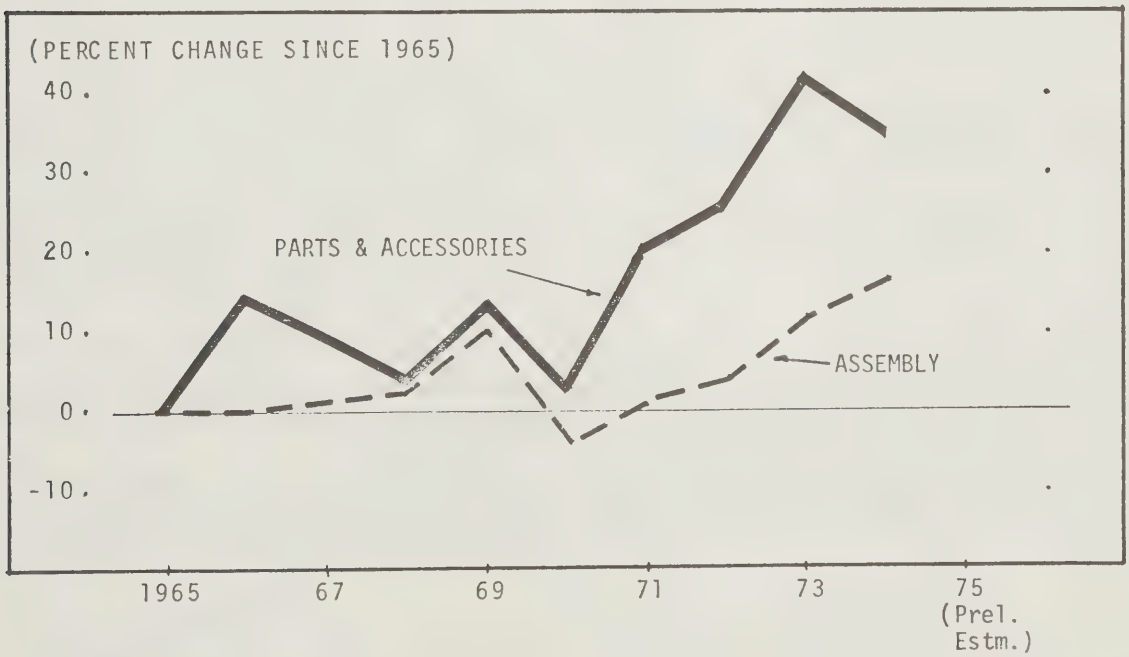
Chart 4 (EMPLOYMENT IN THE CANADIAN AUTOMOTIVE INDUSTRY) also deals with the employment picture and it breaks employment down between assembly of cars in Canada and the production of parts and accessories. You will note that the actual employment in parts and accessories rose faster than it did in assembly and, in 1973 it exceeded the number of people employed in assembly operations.

Senator Yuzyk: Were at least some of these parts and accessories exported to the United States?

Mr. Arthur: Yes; a good deal of these would have been exported. They are parts produced partly for Canadian consumption and most of the production went to the United States. Roughly 80 per cent of Canadian production of motor vehicles and parts for original equipment purposes are exported to the United States. However, I should point out that the employment level in the parts and accessories industry increased substantially after the signing of the Agreement, more so than it did in the assembly sector. The percentage increase for the parts and accessories sector was more than 40 per cent for the period between 1965 and 1973.

EMPLOYMENT IN
THE CANADIAN AUTOMOTIVE INDUSTRY





SOURCE:STATCAN

Chart number 5 (AUTOMOTIVE PARTS & ACC.; CANADIAN CONSUMPTION & PRODUCTION) is an illustration of Canadian consumption and production of parts. This chart illustrates that the production of Canadian original equipment parts has increased substantially since the signing of the Agreement, in 1965. Since 1973, the spread between parts production in Canada and the consumption of parts in Canada has widened substantially. This is the situation that faces the parts industry and is the cause for concern. While there has been growth, the consumption has increased much more rapidly, and this has caused the imbalance in the parts trade with the United States.

Senator Yuzyk: Does that mean that Canadians are now holding on to their cars a little longer?

Mr. Arthur: Not necessarily. Actually, parts production in Canada really does not reflect the situation in the Canadian market to that extent. It is more sensitive to the demand picture in the United States. What you have here, in some respects, is the fact that parts production has not continued to increase as rapidly in Canada because many of these parts are exported for the type of cars that are assembled in the United States, and most of those cars are consumed in the United States. With demand down, that has had some impact on this picture, but it is not the total explanation of it.

Canadian consumption of parts, on the other hand, has increased substantially because the kind of cars, or the models of cars, that were being assembled in Canada, at least up to the last model year, were those where the demand fell off the least. The Canadian assembly of cars was mainly in the sub-compact range, and these, up until the last model year at least, continued to have a relatively high demand factor. This shows you that Canadian parts manufacturers have not experienced production increases to the extent that parts have been consumed in the assembly of vehicles in Canada.

Senator Laird: They claim, of course, that there is an undue amount of importation of parts from the United States in the course of fabrication of automobiles in Canada, and that that is their problem.

Mr. Arthur: Yes. This does reflect that more parts are coming from the United States for the assembly of vehicles.

Senator Laird: Exactly.

Mr. Arthur: The point I would like to make is that the parts production which has gone on in Canada has not, at least since the Agreement, been utilized primarily in the assembly of cars which have been produced in Canada. Most of the parts produced in Canada have been exported to the United States for assembly in cars. The parts manufacturers have expressed concern, that their production has not grown at the same rate as the consumption of parts.

Senator Laird: Frankly, the complaint we hear from them is that parts for the production of Canadian vehicles, which normally should be made in Canada, are now being imported from the United States in increasing numbers. Whether or not they are right, I do not know, but that is always their current complaint.

The Chairman: Do you wish to comment on that, Mr. Burns?

Mr. Tom Burns, Senior Assistant Deputy Minister, Department of Industry, Trade and Commerce: Mr. Chairman, one can look at the automobile situation in two different ways: one can look at it in purely Canadian terms, or in North American terms. It is fair to say that the purpose of the Automotive Agreement was really to try to move to a situation where one would look at the market in North American terms rather than strictly in Canadian terms. It depends on your perspective. This, of course, is a much more Canadian oriented graph than one that should be looked at in Canadian-U.S. combined terms.

Mr. Arthur: That is right.

The Chairman: Mr. Arthur, I am afraid the graph gives me some difficulty, because I keep trying to remind myself that approximately 80 per cent of the vehicles assembled in Canada would be exported. So your graph shows that Canadian production of parts is little more than 50 per cent of our consumption of parts. Is that correct—very roughly?

Mr. Arthur: Yes.

The Chairman: So that the downturn in purchases of new vehicles in the States cannot account for that primarily, because we are producing the vehicles. Do you get my point?

Mr. Arthur: The type of parts manufacturing facilities that we have in Canada—not in total, but in large measure—are geared to produce components that are utilized in cars assembled in the United States. They are the larger cars, intermediate and standard model cars. Those parts being imported are for the assembly of cars such as subcompacts, which are the kind of cars largely being assembled in Canadian assembly plants. They are coming from the United States. If those cars were assembled in the United States as opposed to Canada, and we were assembling intermediate and standard model cars, these two lines on the chart would probably be closer together because of the down turn in demand for those types of cars in the United States market.

The Chairman: That explains my question. Thank you.

Senator McElman: If there is a trend towards sub-compacts, would not the trend in production of parts lean in our favour in the future?

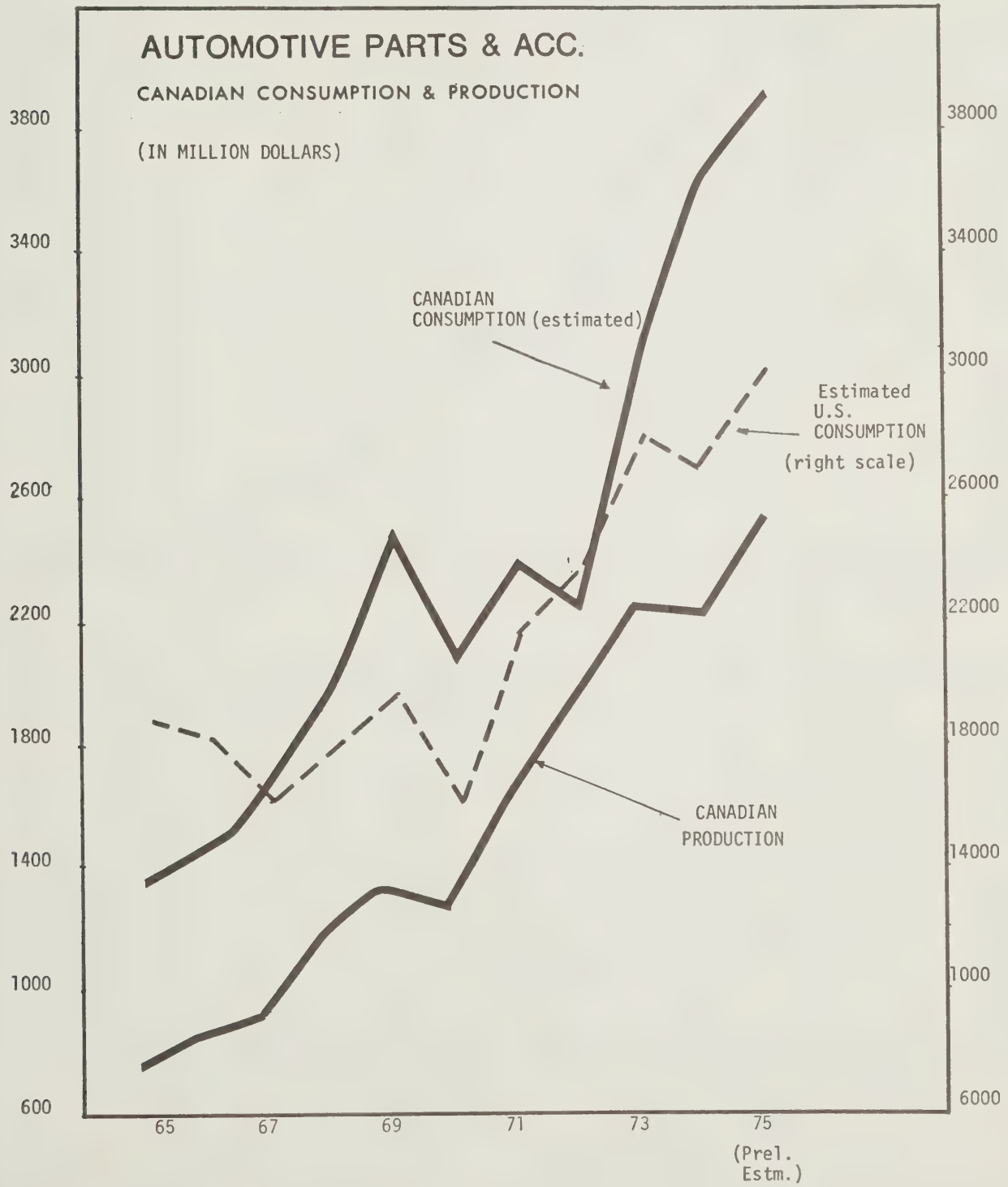
Mr. Arthur: That is a concern which we have, in that the kind of parts production required to meet a growing segment of United States automobile demand, or North American automobile demand, is taking place in the

United States, as opposed to having its source in Canada. This is one of the concerns which have been expressed by the parts manufacturers and one which in the longer term may have more substance to it.

The Chairman: At the moment there is an upswing in the sale of large cars in the United States which would tend to narrow that gap theoretically.

Mr. Arthur: If that upturn is of a longer duration, it conceivably could have some impact on this situation and also on our trade picture for 1976.

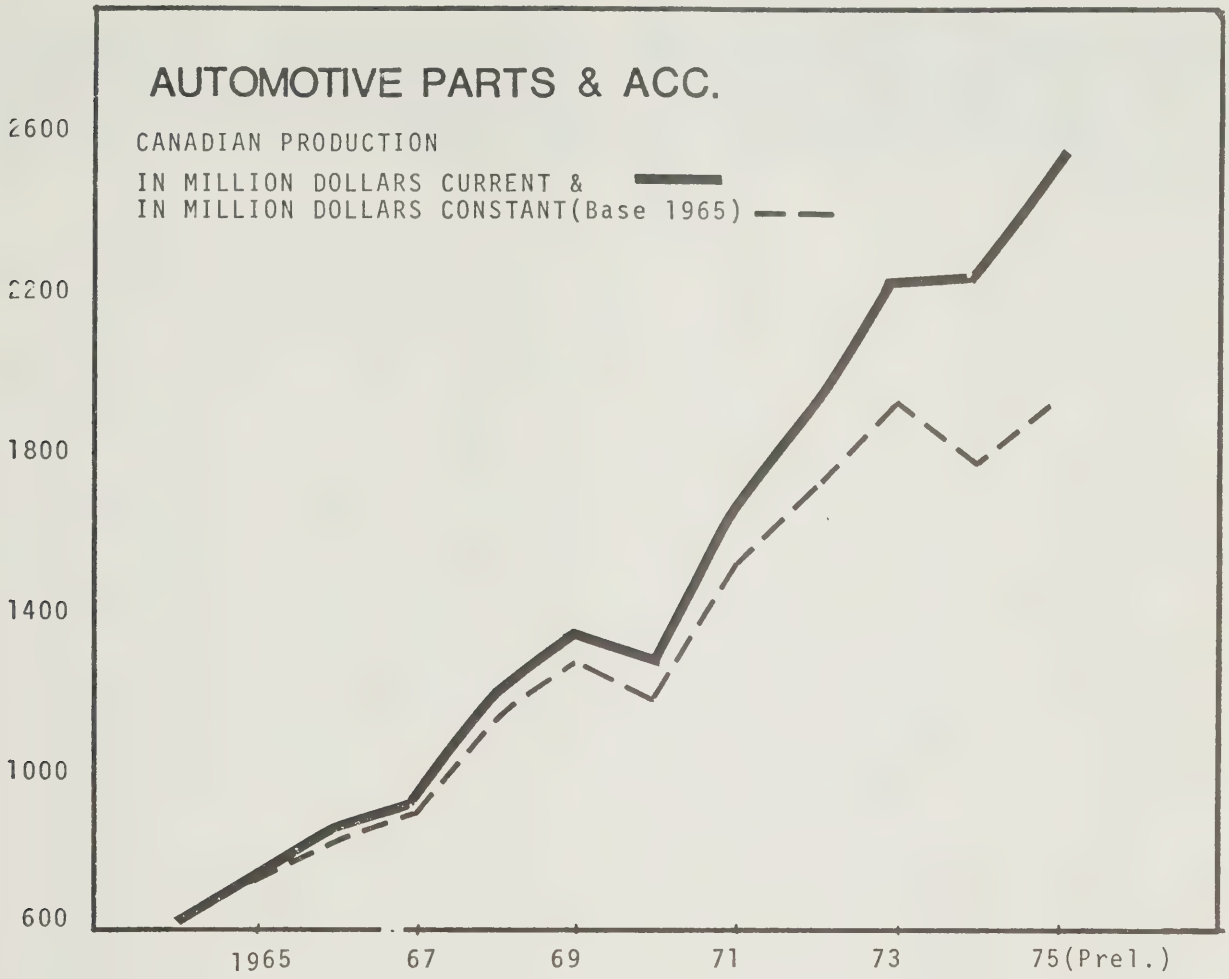
The Chairman: Thank you.

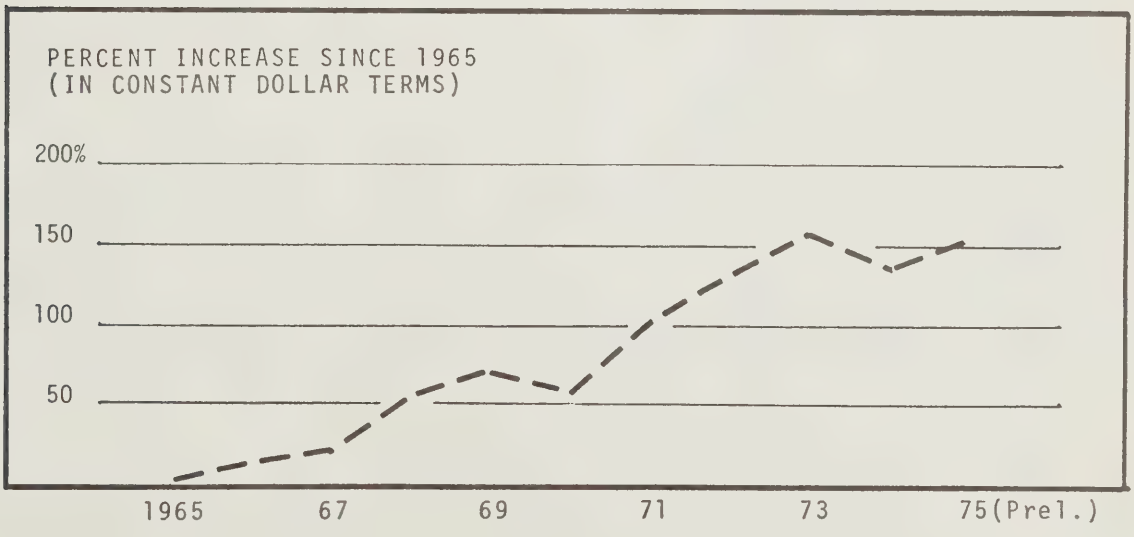


SOURCE: -CONSUMPTION ESTIMATED BY RECENT U.S.SURVEY

Mr. Arthur: The next chart (Chart 6, AUTOMOTIVE PARTS & ACC.; CANADIAN PRODUCTION in current dollars & in constant dollars) is for the purpose of illustrating the production of parts to show that there has been growth in the parts sector since 1965. The dotted line is in constant dollars based on 1965. The bottom chart shows the percentage increase since 1965.

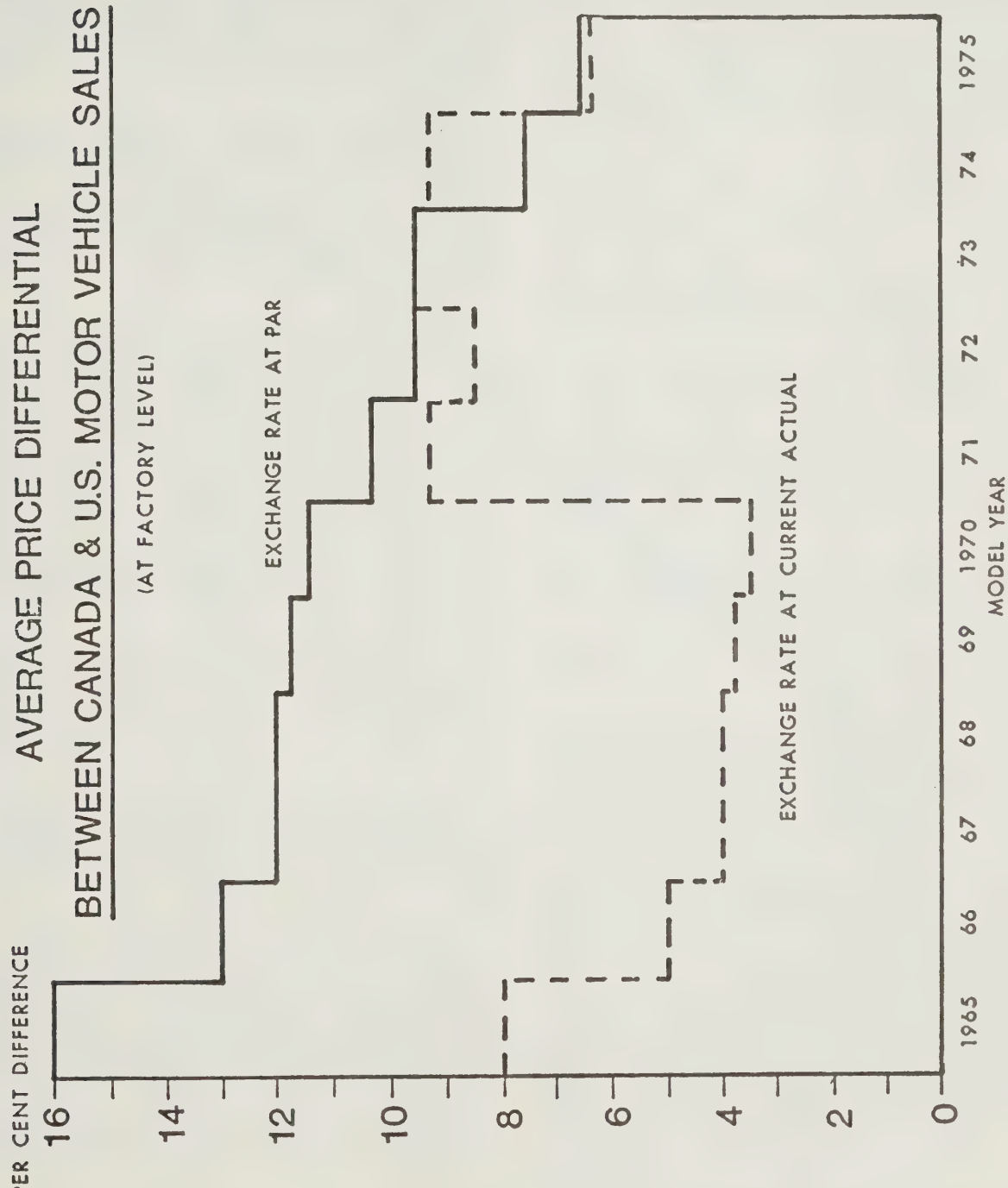
Another indicator that is discussed at considerable length in dealing with the automobile sector is the price differential between car prices in the United States and Canada. I would like to apologize to the committee, Mr. Chairman.


AUTOMOTIVE PARTS & ACC.
CANADIAN PRODUCTION
IN MILLION DOLLARS CURRENT &
IN MILLION DOLLARS CONSTANT(Base 1965)
2600
2200
1800
1400
1000
600
1965
67
69
71
73
75(Prel.)


PERCENT INCREASE SINCE 1965
(IN CONSTANT DOLLAR TERMS)
200%
150
100
50
1965
67
69
71
73
75(Prel.)

The chart (Chart 7; AVERAGE PRICE DIFFERENTIAL BETWEEN CANADA & U.S. MOTOR VEHICLE SALES (AT FACTORY LEVEL) that was distributed to the members reflected a somewhat bigger downturn year and showed that the differential on average in this current year was 4.5 per cent when, indeed, it should be 6.3 per cent. We will correct that on the pages provided to the committee.

Based on an exchange rate at par, which really is the easiest way to understand what has happened to the price differential since the signing of the Agreement—and this is at wholesale, removing the tax circumstance out of both sides of the border—on a constant dollar basis, the differential has decreased from 16 per cent, on average, in 1965, to 6.5 per cent in 1975.


AVERAGE PRICE DIFFERENTIAL
BETWEEN CANADA & U.S. MOTOR VEHICLE SALES
(AT FACTORY LEVEL)
PER CENT DIFFERENCE
16
14
12
10
8
6
4
2
0
EXCHANGE RATE AT PAR
EXCHANGE RATE AT CURRENT ACTUAL
1965
66
67
68
69
1970
71
72
73
74
1975
MODEL YEAR

The final chart, (Chart 8; CANADA-U.S. AUTOMOTIVE TRADE) Mr. Chairman, is an illustration of the Canada-U.S. automotive trade picture, and this shows an increase in total trade in terms of U.S. exports to Canada and Canadian exports to the United States. The difference is the trade imbalance which we are experiencing at the present time.

The Chairman: Before you leave that chart, Mr. Arthur, are those dotted lines following Canadian exports to the United States and United States exports to Canada projections into this year?

Mr. Arthur: Yes, Mr. Chairman. The actual figures are not as yet finalized.

The Chairman: The projections show an increased imbalance.

Mr. Arthur: The imbalance will be greater for 1975 than it was for 1974. In 1974, the imbalance was $1.3 billion, whereas the estimation for 1975 indicates an imbalance of approximately $1.8 billion.

Senator McNamara: Are these parts manufacturing companies controlled by the same financial interests?

Mr. Arthur: Automotive parts production in Canada is production either undertaken by the motor vehicle manufacturers themselves or by independent parts manufacturers. Many of the parts manufacturers in Canada are subsidiaries of independent parts manufacturers in the United States.

Senator Macnaughton: Mr. Chairman, I wonder if the witness, for my benefit, at least, could tell us the geographical location of the parts manufacturers in Canada.

Mr. Arthur: By far, the greater number of parts manufacturers are located in southwestern Ontario, in the area from Toronto to Windsor.

Mr. Chairman may I continue.

There are a number of increasingly important factors that will contribute to the uncertainties faced by the automotive industry over the next decade. For this reason, the Prime Minister and President Ford agreed that officials of the two countries should be directed to examine the North American automotive industry in the longer run.

Unlike other periods of inflation, particularly in the United States, the current inflationary surge has been more pronounced and has more directly involved increases in the costs of basic needs, such as food. How people will rearrange their spending is as yet unknown, and automobile demand could suffer significantly. There is some evidence that the current circumstance is reflective of this shift in consumer spending preferences. That being so, trends based on pre-1974 data may no longer be valid.

Rising energy prices and the threat of future disruptions in supply may impact on automotive demand. The industry will have to meet the mandatory fuel economy standards on new vehicles, as well as engine emission and safety standards. The influences of the energy situation on the consumer, government action spurred by energy problems, and regulations relating to safety and engine emission, will have significant impacts on the configuration of the North American automobile. Although manufacturing methods and materials will not change drastically, the industry will have to shift to the use of lighter-weight materials which require different fabricating techniques to meet design, manufacturing, cost and weight requirements. Manufacturing will become more automated.

The cumulative effect of these changes will significantly alter the traditional sourcing pattern of the industry. Many materials and parts suppliers will have to adjust to the changing circumstances in this industry if they hope to continue to compete. The development of new types of vehicles, new technologies and standards will require considerable new investment. It is important to ensure that the Canadian industry participates fully in these developments.

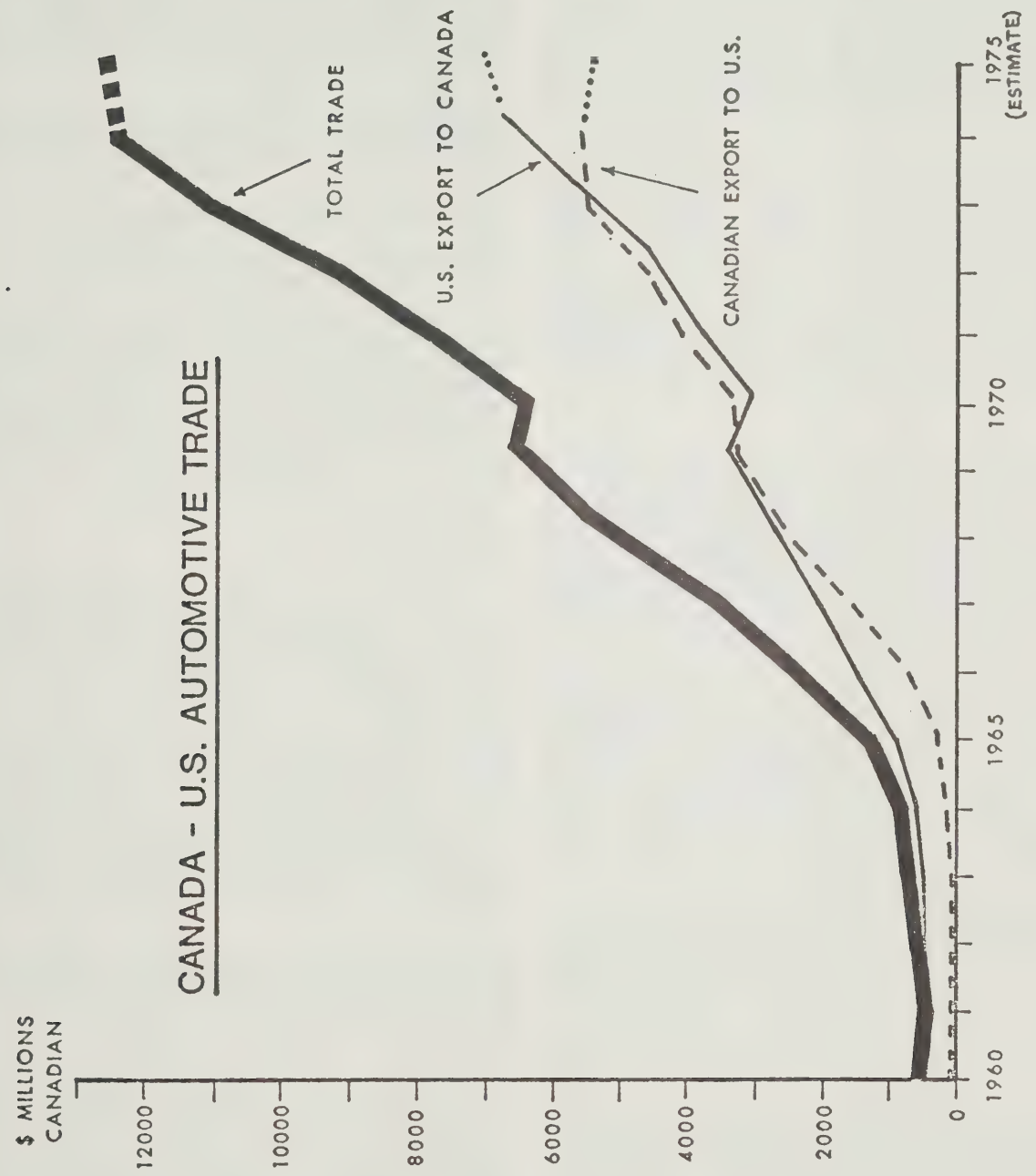
It is for these many reasons that a detailed study of the integrated North American automotive industry is being undertaken at this time both by Canada and the United States. Since the industry is highly integrated, its Canadian and United States components will continue to experience a great many problems of adjustment in common. However, it is possible that these changes could affect each country's industry in different ways. It was agreed, therefore, that the studies would be conducted separately, but would be developed cooperatively on the basis of an agreed set of topics and the studies, to the extent feasible, would use a similar methodological approach. This approach would enable a certain comparability of data, assumptions and analyses to be maintained. At the same time, however, it allows both sides the freedom to explore all avenues of special interest to each.

The general areas being examined include an analysis of where the industry presently stands in North America, and elsewhere, together with an evaluation of the impact on the industry of environmental constraints, energy and safety regulations, new technology and changing demand patterns.

The studies are well under way and officials of the two countries have agreed to meet from time to time to review the progress of the work. These parallel studies could, in due course, provide a measure of common understanding against which the two governments could consider future relations between the two countries in the automotive sector.

The Chairman: Thank you, Mr. Arthur. I might correct a remark of mine which I made just before the showing of the slides. I mentioned for the record that it would not be possible to have the charts reproduced in our record. The charts, of course, can be reproduced in our record from those with which we have been provided, if that is the wish of the committee. We can decide that at the end of the meeting.

I will call on Senator Croll to commence the questioning.


CANADA - U.S. AUTOMOTIVE TRADE
$ MILLIONS CANADIAN
12000
10000
8000
6000
4000
2000
0
1960
1965
1970
1975 (ESTIMATE)
TOTAL TRADE
U.S. EXPORT TO CANADA
CANADIAN EXPORT TO U.S.

Senator Croll: From the information I have before me—and no doubt you will correct me if I am wrong—out of total Canada-U.S. trade in 1974 of $40 billion, $12 billion, or 30 per cent, was in automotive products. In the auto industry, two out of ten people in Ontario either directly or indirectly are employed—indirectly includes in steel, plastics, paint, glass and other things. I am merely indicating that Canada only benefited from this in 1970, 1971 and 1972, and that the accumulative deficit from the Canadian point of view since 1965 is only about $5.2 billion. In 1975 the deficit would be about $1.6 billion and the auto parts deficit for the last two years has been almost $2 billion. I will start there.

We will first deal with jobs. As I recall it, when we started, the purpose was to increase Canadian jobs and investment by setting up free trade arrangements between the two countries for auto makers and parts manufacturers.

Insofar as jobs are concerned, at the time of the Auto Pact, Canada produced 4 per cent of the total North American production and consumed 7.5 per cent. I believe that is your figure. In 1974 we consumed 9.8 per cent. What was the production in Canada in 1974?

Senator Laird: Percentagewise.

Mr. Arthur: Mr. Chairman, the figure that Senator Croll mentioned of 7.5 per cent was a figure based on the 1964 experience in Canada. If you will recall, at that time almost all of the cars that were consumed in Canada were produced in Canada. Almost all of the parts, or, at least, a much larger share of the parts that were produced were used in the assembly of vehicles that were produced here. Therefore, it was possible to make a comparison of this kind between production and consumption.

Today, however, the majority of the parts that are produced in Canada are exported, and these figures were based on actual unit figures as opposed to value figures. Therefore, your parts production can only be projected on a dollar basis. These are not consumed in cars that are necessarily produced in Canada. Therefore, if you were to use the cars that are produced here, in relation to consumption, it would show that the actual production of cars in Canada exceeds the value or the number of units of vehicles that are consumed in Canada.

In those cars that are produced in Canada, as one of these charts illustrated, the percentage of Canadian components that may be incorporated in those vehicles could be quite small. It is not really possible, therefore, at this time to give an accurate relationship of those two figures that we used, or which were used in the press release in 1965.

Senator Croll: My notes also indicate that jobs in Canada are now declining in the industry.

Mr. Arthur: There has been a slight decline in employment in the last year but as the chart (chart 4) illustrated, there has been a substantial increase in employment in Canada since 1965. In the parts industry, particularly, they experienced a greater increase in employment levels than was experienced in the other sector, the assembly of vehicles.

Senator Croll: My information was that in 1965, 8.6 was the number of people employed in the industry. It had somewhat increased but I cannot differentiate between the vehicle aspect and the parts aspect. I cannot follow you there.

Mr. Arthur: I believe, senator, you have in front of you the chart, and I would ask you to look at chart 4 which shows that employment in the parts and accessories industry in Canada rose from approximately 33,000 in 1965 to peak in 1973 at 45,000. There has been a slight decline in employment since that time. However, it still remains well over 40,000.

Senator Croll: You have already mentioned that you are unable to tell us how much more production, due to the fact that it is impossible to relate the two, the 1964 and the 1974.

Mr. Arthur: In that kind of relationship, yes.

Senator Croll: Put it in any kind of relationship. Put it in your own terms, you are on top of this matter.

Mr. Arthur: The best measurement to reflect Canadian participation would be in terms of the value added that has been experienced in Canada. In 1965 the value added, on average, in automobile production in Canada was somewhat under 60 per cent. In terms of value added in relation to total production in Canada, both vehicles and the equipment parts, on average for the industry, it is in excess of 70 per cent and probably closer to 75 per cent.

Senator Croll: A 15 per cent difference.

Mr. Arthur: That is right.

Senator Croll: I would like to get back to the information that I had which is that we only benefited in this agreement in 1970, 1971 and 1972 and since then we have had a deficit of $5.2 billion. That is a lot of money. Much of it came through parts, about $2 billion of it. Is that considered something we must live with?

Mr. Burns: Clearly the balance of trade is an important indicator in relation to any judgment of the condition of the Automotive Agreement. It is also clear that there are other indicators that are also of very substantial importance and those indicators are really the level of employment in Canada in the industry and the level of production in the industry. One has to look at this package of indicators to determine whether or not this has been a benefit to Canada.

If you focus solely on the trade balance, as pointed out in Mr. Arthur's presentation, very clearly the deficit has been substantially affected by the different character of the automobile market in the two countries in the last two years.

It is clear that Canadian consumption of vehicles continued on an upward curve and U.S. consumption of vehicles declined very sharply. Without in any way dismissing a trade balance of the type you describe, senator Croll, one must also take into account the fact that rather unusual circumstances have prevailed in the Canada and U.S. markets combined, in these last two years. Therefore, in looking at the Agreement, one must acknowledge that a $5 billion deficit accumulated over two years is not a happy situation. However, one would also, before making a final judgment with respect to the Agreement, have to look, firstly, at the circumstances which lead to that and, secondly, at these other indicators as set out on the charts relating to employment and production in Canada.

Senator Croll: But, we did well in 1965, 1966 and 1967, right up almost to 1970. Then we started sliding down in 1970, 1971 and 1972. However, the two objectives we had in mind when entering the agreement were to create jobs and to create investment. Broadly, as I recall it and from the notes, we had an approximately two per cent increase, at the most, in automotive employment in Canada during the period from 1965 to 1975; that is my figure. At the same time, the investment fell from a high of $554 million from 1965 to '67; it fell during 1967 to 1970 by 21 per cent; and during 1971 to 1973 by 25 per cent. If those were the two main objectives of the agreement, I point out to you that they are not reflected in the figures I have given you which, of course, may be wrong.

Mr. Arthur: The chart (chart 4) that we showed in connection with employment contained figures indicating that in the parts and accessories industry employment from 1965 to 1973 rose by approximately 42 per cent. Employment in the assembly sector of the industry increased by 12 per cent, or in 1973 was 13 per cent higher than it was in 1965. In the case of the assembly employment, the rationalization took place in moving production from a wide number of models being produced in one assembly plant, for which a greater number of workers was required for that less efficient operation than the type of assembly that is going on now. So that the output per worker in the assembly plants has increased substantially since 1965, but employment overall in the industry has increased substantially more, I suggest, than your figures indicate.

Senator Croll: And investment?

Mr. Arthur: Initially the program and the manner in which the program was put together required considerable new investment to take place in Canada in order to achieve the production levels that were set out. Investment in the automotive industry is of two kinds: one is for new capital for plant and equipment; the other is for model changeover. The investment in new plant and equipment is very lumpy in nature. In other words, if one of the car companies undertakes to build a new assembly plant, a new stamping plant or a new engine plant, that is a very substantial investment, but they do not require those on an annual basis. Therefore, we have this step-by-step investment picture in which we will see large or lumpy investment in certain periods and apparently much less investment in subsequent years.

Senator Croll: I give you a three-year period each time: 1965 to 1967, $554 million; 1967 to 1970; then 1971 to 1973. In each case I have indicated the down trend; I indicated that since 1967 there has been a down trend of almost 45 per cent.

Senator Laird: A down trend in what?

Senator Croll: Investment in the auto industry in Canada.

Mr. Arthur: I can only answer that in a similar fashion, that the investment that has taken place created a capacity for a certain number of vehicles and the motor vehicle industry tries to anticipate what demand will be. Based on the projections they had, they considered that capacity of roughly 15 million units annually was required to meet demand. This was in the period around 1970 and 1971. The peaked automotive demand in North America was in 1973, when something like 14.5 million units were consumed. There is capacity in North America for roughly a 15 million car market. Last year the total number of vehicles sold was, I believe, approximately 11 million units. Therefore there is at the moment no need for new facilities to be erected. The funds that are being spent now are funds required for new tooling to take care of whatever model changes or configuration changes are going on within the industry, but no new plant has been built, either in the United States or in Canada during the last two years. I do not believe that there are any new facilities includes in the industry forecast, at least for the next year or so.

Senator Croll: Since the Canadian market has increased as your indicated, has the investment been proportionate to the increase?

Mr. Arthur: I would say that over a long period of time, and in my opinion you must look at investment over a long period of time, the investment percentages in relation to total automotive investment in North America are reasonably in keeping with the Canadian demand as a percentage of total North American demand.

Senator Croll: Reports indicate that the new model lines are being built in various parts of the world; do we have any of that?

Mr. Arthur: Senator Croll, I believe that all the Canadian plants, assembly plants and parts manufacturers, having regard to the present softer demand picture in North America, are working at reasonable levels of capacity. Indeed, the level of capacity at which they are operating in Canada, in the assembly area at least, is in excess of that, but that is the situation in the United States. So I can only suggest to you that the Canadian industry is getting a reasonable proportion of the levels of production that are now required to meet U.S. and Canadian demand.

There has been some suggestion that more of the North American market will be served, or is being served, offshore. I think that is the other part of your question. While certain cars and components are being imported by the motor vehicle manufacturers from offshore, there does not appear to be any trend developing here. Some of the parts the industry is receiving from abroad is of a temporary nature until such time as facilities can be converted in North America to produce that particular component.

Senator Croll: Is it fair to say—and you are the government man on this—that it appears we received in the last 10 years a fair rate of the new investment in the North American industry?

Mr. Burns: Mr. Chairman, I wonder if I might make a comment on this. I think Mr. Arthur suggested that one has to look at a fairly lengthy period and not at the year-by-year figures. I recognize that your figures on investment were not cast in those terms. If one were to look at this Agreement more generally, it is fair to say that from a Canadian point of view the parts situation is not in what we would think an optimum situation.

Senator Croll: I was not speaking about the parts.

Mr. Burns: No, but this relates also to the investment side of it. What you have to look at in terms of this Agreement is its overall effect on Canada and its overall benefit to Canada. What I was beginning to say, Mr. Chairman, was that if one were looking at this *ab initio*, one would look for a somewhat better balance between

parts and assembly in order to reduce what you have identified very clearly as a substantial trade deficit on the parts side.

One also has to look over a period of time at what investment has led to in terms of the kinds of cars which have been produced in Canada. That has had an impact on the industry as a whole. So, in making those general comments, that is the general basis from which one looks at all the elements which have gone into the Automotive Agreement.

Senator Croll: I asked a question on the basis of 10 years—1965-75. Broadly I wanted to know whether it was the view that they had dealt with us fairly, considering the fact that they have gone offshore on some things. Have they dealt with us, from the investment point of view, fairly, broadly in the industry? Perhaps you cannot answer. I am not pressing you for an answer.

Mr. Burns: Mr. Chairman, I am not sure how one defines whether it has been fair or unfair. One has to look at some of the things that have happened in the period. If employment has increased 40 per cent, if Canadian production has increased X per cent, that presumably has been partly influenced by the degree of investment that has occurred.

One must make a judgment as to whether that kind of increase in employment and production in Canada is the kind of increase in production and employment that any reasonable person would think was fair.

Senator Croll: Let me get to the parts, and we will see about that. In 1971 Canada accounted for 72 per cent of the United States automobile parts imports. In 1974, that figure is down to 59 per cent. At the same time, Japan, Mexico and Brazil doubled their share of that market. The Canadian share fell from 92 per cent in 1964 to 6 per cent in 1973.

The Chairman: That is the Canadian market only?

Senator Croll: Yes, the Canadian share of the market.

Mr. Burns: Mr. Chairman, I wonder if Senator Croll would go over that again. I am not sure that I follow his figures.

Senator Croll: I will check my notes. Canadian parts procuded as exports to the United States represented 94.2 per cent of Canadian output. This market is declining. In 1971 Canada accounted for 72 per cent of the United States automobile parts imports. In 1974 it declined to 59 per cent. Japan, Mexico and Brazil have doubled their share of this market. The United States automotive parts industry appears to have almost supplanted the Canadian parts industry in the Canadian market. The Canadian industry's share fell from 92 per cent in 1964 to 6 per cent in 1973. Those figures came from notes, and so on.

Mr. Arthur: Senator Croll, the figures we have available show the Canadian exports of parts and accessories to the United States—you are using figures as a percentage of the United States market?

Senator Croll: Yes.

Mr. Arthur: I do not have any figures on that, but I believe you said that roughly 95 per cent of parts and accessories produced in Canada went to the United States.

Senator Grosar: Ninety-two per cent and 64 per cent.

Senator Croll: Ninety-four point something. Let me ask my next question. Assuming that we look upon Japan, Mexico and Brazil as offshore for a moment, are we no longer competitive in that market; and, if so, what is the reason for that? Is it because of the wage scale, our parity, productivity, efficiency, or what?

Mr. Arthur: Senator Croll, I do not think I can accept the premise that we are not competitive in that market. I do not know where that figure of 6 per cent came from. My understanding is that in absolute dollar terms the export of parts from Canada has increased. It has not declined. The figure you have may be of the total parts imports into the United States, but I do not believe that figure in any way reflects either the competitiveness of the Canadian parts industry or indicates, in absolute dollar terms, that the value of exported parts to the United States declined. Indeed, as was indicated on one of the charts, parts production in Canada has continued to increase. Our figures show that some 95 per cent of parts production is exported to the United States. I do not believe that you can relate the figure of 6 per cent in any way to the competitiveness, or otherwise, of the Canadian parts industry.

Senator Croll: The figure I gave you came from the Automotive Parts Manufacturers' Association of Canada.

Mr. Burns: Mr. Chairman, I think Senator Croll has raised two separate issues, the first of which relates to the total import market in the United States. I think his statement was that whereas in 1971 Canadian automobile parts production represented 72 per cent of total imports into the United States, that figure declined to 59 per cent in 1974.

We do not have the figures with respect, to total imports of automotive parts from all sources. We would be glad to supply the committee, in written form, with the official figures of the United States in that area.

As a preliminary response, I am not surprised to set Japan showing a larger proportion of sale of parts in the United States in light of the number of Japanese origin automobiles that are in use in the United States. One would normally expect the supply of replacement parts, if you like, to be increased fairly substantially. Secondly, there have been some imports by the manufacturers of Japanese manufactured cars themselves, although that is a very small proportion of the total.

As far as imports from Mexico and Brazil are concerned, there may have been some increase, but the figures start from an extraordinarily low base. Five or six years ago, the United States would not have been importing any parts whatsoever from Mexico or Brazil.

Dealing with the second point related to the parts that are in cars produced in Canada, as Mr. Arthur has already indicated, the development of the integration as between Canada and the United States has meant that in automobile assembly, parts come from both U.S. sources and Canadian sources. I think it is fair to say that there is a large proportion of American parts in automobiles assembled in Canada; on the other hand, there is a large volume of Canadian parts used in the assembly of automobiles assembled in the United States. Parts production is moving in that direction rather than being focused in terms of Canadian production and U.S. production.

Senator Croll: I think we can understand and appreciate the reason for the increase in Japanese parts entering the United States. However, Mexican and Brazilian manufac-

turers represent a large proportion of the parts used. The figures in respect of Mexico and Brazil, as has been indicated, have almost doubled.

The Chairman: But from what to what, senator? From 1 per cent to 2 per cent?

Senator Croll: I do not know what the percentage figures are.

The Chairman: Perhaps we should have those figures in front of us.

Mr. Burns: I apologize for not having those figures available, Mr. Chairman. I did not realize that that would be an area of questioning. We will certainly submit a written response setting out the pattern of total U.S. imports, other than imports from Canada. We have all the figures on Canadian sales to the United States, but we do not have the figures concerning sales by countries other than Canada.

The Chairman: In supplying those figures, perhaps you could show the correlation between increases in American imports of automobiles followed by the parts to service those automobiles. I assume one would follow on the other.

Senator Croll: Except Mexico does not have an automotive industry, nor does Brazil. There must be some reason for the increase in parts sold in the U.S. market by those countries.

Senator McNamara: Supplementary to Senator Croll's question, is there any agreement between the United States and Mexico and Brazil, such as the Auto Pact between Canada and the United States?

Mr. Burns: No.

Senator Croll: Looking at Appendix "A", there was a sudden increase in the importation of tires and tubes into Canada in 1974. Was there any particular reason for that?

Mr. Arthur: There are possibly two reasons for that, senator, one being the sudden popularity of the radial tire, facilities for their production did not exist in Canada at the time and, secondly, the rather lengthy strike which took place in the Canadian tire industry at that time.

Senator Croll: One final question, Mr. Chairman. Dealing with price differential, my notes indicate that it is estimated that 35 per cent of the Big Four profits in 1974 came from Canadian operations, which produced 12 per cent of the total volume. Orginally, there was a differential in 1965 of 16 per cent. It is now in the area of 6 per cent or 7 per cent. After deducting the federal sales tax and higher costs of distribution—bilingual advertising, warranties, and all the rest—have we achieved parity of price? Are we satisfied with what we have been able to achieve in terms of parity of price?

Mr. Arthur: The composition of the price differential has been a matter of considerable discussion between the Department and the motor vehicle companies. We have continued to put pressure on the automobile companies with the expectation that the price differential could be further narrowed.

Senator Grosart: Mr. Chairman, some of the questions I am about to ask have been answered, and I suggest that perhaps we could get more or less "yes" or "no" answers to them. I am not being critical. It is simply that the purpose of my questions is to relate the expectations of the Canadian government, when this policy was agreed to, with what in fact has happened.

There were approximately 12 assumptions made, all of which are contained in the statement made by the Honourable Mr. Drury in announcing the pact in 1965. Perhaps I could run through them quickly and elicit a "yes" or "no" answer as to whether or not these expectations have been realized.

Dealing with the first one, which is on page 2 of the statement, have we achieved a fair and equitable share of the expanding North American market? That is a major question.

Mr. Burns: Mr. Chairman, I am not sure that any of these objectives can be answered strictly in a "yes" or "no" kind of way. It is fair to say, I believe, that we have a fairer and more equitable share. I would put it in a continuing way.

Mr. Arthur: If I may, Mr. Chairman, I would say also that I cannot answer this with a "yes" or "no". The terms that were used at that time were "a fair and equitable basis," not "a fair and equitable share."

Senator Grosart: The word was "share," "fair and equitable share." Now, have we achieved that? Either we have or we have not, or you can tell me it was just hope.

The Chairman: In fairness to the witness, Senator Grosart, you should define "fair and equitable."

Senator Grosart: I am quoting the minister, who said we are going to achieve "a fair and equitable share." This is the whole purpose of this thing. Have we done it? Surely we can come up with an opinion.

Senator Croll: This is at the bottom of page 2.

Senator Grosart: These are the exact words.

Mr. Burns: Mr. Chairman, the only thing that one can say at this time is that we have a fairer and more equitable participation in the North American market than we had at the beginning of this operation.

Senator Grosart: So, the answer is "fairer and equitable" without taking an absolute definition of "fair and equitable." That is a good answer.

Then he goes on to say,

> By the 1968 model year production in Canada of vehicles and parts . . .

That is original parts.

> . . . going into their manufacture should be expanded by about one-third over their present level.

Was that met?

Mr. Arthur: That was met.

Senator Grosart: Has it continued at about that rate?

Mr. Arthur: It has not increased subsequently at the rate it did between 1965 and 1968 but increased levels of production have been maintained.

Senator Grosart: Then:

> For the first time, Canadian motor vehicle producers will have free access to the United States.

Have we free access?

Mr. Arthur: Yes.

Senator Grosart: Then, following along the line of Senator Croll's questioning:

> The Canadian automotive parts industry will have a largely expanded market for components in Canada.

Mr. Burns: If you took that paragraph altogether and added the second sentence, Mr. Chairman, I think the Canadian automotive parts industry has a largely expanded market—period.

Senator Grosart: That is not the question, "for components."

Mr. Burns: For components, yes.

Mr. Arthur: The assumption, senator, behind this statement is that there would be increasing assembly as a result of access to the U.S. market on a free entry basis and this would increase the use of Canadian components.

Senator Grosart: Either the market has expanded or it has not. That is straight statistic. "Yes" or "no"?

Mr. Arthur: I would say, yes.

Senator Grosart: At the bottom of page 3 it refers to "more jobs", and I think you have answered that. Your answer there would be, "yes"?

Mr. Burns: Yes.

Senator Grosart: At the top of page 4, "increased efficiency and reduced costs". Have costs been reduced in the automobile business?

Mr. Arthur: The answer to that is, yes.

The Chairman: I think the chart showed from an 18 per cent to a 6 per cent differential.

Senator Grosart: No, this has nothing to do with differential. It says, "progressively make possible increased efficiency and reduced costs."

Mr. Burns: Yes.

Senator Grosart: Costs have gone up.

Mr. Burns: Surely, that is a relative question? Mr. Arthur made the point that in the period pre-1965, the automotive assembly business in Canada was largely inefficient because of the large number of models that were being produced in those assembly plants, and the efficiencies have increased rather substantially because of a concentration on a smaller number of models. Therefore, in efficiency terms, the answer to that is "yes." That is true as well in the parts industry because of the larger runs of particular components that are being made.

In terms of reduced costs, of course, one can look at this in absolute on relative terms. In absolute terms obviously costs have increased because costs have increased all round.

The Chairman: In constant dollars though.

Senator Grosart: I don't care if it is in constant dollars or anything else. When the minister says:

> Of significance for the Canadian consumer is the fact that over several years the plan should progressively make possibly increased efficiency and reduced costs.

He is entitled to say to the consumer that the automobile is going to cost less.

The minister continues:

> Indeed, this is one of the principal objectives of the entire program.

I will not ask you to comment on whether the minister was right or whether he was over-optimistic.

The narrowing differential—you have answered that.

Then he goes on to say that will make an important contribution to the improvement of Canada's international payments position, and will also help in reducing Canada's current account deficit. Has that happened? No.

He then goes on to say that this introduces the kind of stability which was not possible in measures introduced exclusively by Canada." Would you say there is an increase of stability in the industry? "Stability" is an indefinite word.

Mr. Burns: I think so. I think the answer to that is, yes.

Senator Grosart: This is not an expectation but a statement of intent that other automotive products from the United States will continue to enjoy the general duty-free treatment. There has been an exception to that, has there not?

> Imports of vehicles and all other automotive products from the United Kingdom will continue to enjoy the general duty-free treatment which they have received for many years.

Was there not a duty put on small cars which affected the British?

Mr. Burns: No.

Senator Grosart: This again comes to Senator Croll's question:

> whereas Canada now produces some 4 per cent of total North American automotive production, it consumes about 7.5 per cent. As a result of the new program, Canada should be producing a substantially larger share of total North American output . . .

and so on. He said that would be by 1968. Have we an increased share in the American market?

Mr. Arthur: Yes.

Senator Grosart: To come back to the equitable sharing, speaking again of the year 1968, the minister said:

> The test will be whether the Canadian automotive industries have adequate opportunity to participate fully and equitably in the expanding North American market.

Would that statement stand up, "fully and equitably in the expanding North American market"? Is there some shortfall of "fully" and some qualification of "equitably"?

Mr. Burns: Mr. Chairman, we answered a similar question by making it a comparative thing, "more fully and more equitably."

Mr. Arthur's presentation indicated that we had some concerns about the institutional arrangements in the light of the ownership of the companies. I think some of these concerns are still present but I would also go on to say that over the period, there has been progress towards this full and equitable participation objective.

Senator Grosart: A few years ago, when the Canadian benefit from the agreement looked rather better than it is today, there were many suggestions that this kind of agreement might be applied to other products in Canadian-American trade. Would you say that the overall experience, over the entire period of 12 years, would indicate that this would be a useful way to consider the rationalization of Canada-U.S. trade in other products?

Mr. Burns: Mr. Chairman, that is a very important and very widespread question that Senator Grosart has asked. In looking at it, one has to look at the particular circumstances that applied to the automotive industry at the time the Automotive Agreement came into effect and then see if those kinds of circumstances applied in other industries. It is not easy to find very many industries where the same kind of circumstances applied.

One must remember the results that came out of the Kennedy Round, which were after the Automotive Agreement. Indeed, we are now in a round of multilateral trade negotiations, and the progress that will be made towards the diminution of tariff and non-tariff barriers between Canada and the United States will, in the long run, provide the kind of circumstances that will give a basis for rationalization that will be fairly widespread between Canada and the United States.

Senator Grosart: Are any such arrangements, rationalizations, contemplated or under investigation and inquiry now by your department?

Mr. Burns: Not of the character of this Agreement.

Senator Croll: Can you rationalize this automobile arrangement with the farm machinery arrangement, which is under almost similar circumstances?

Mr. Burns: Mr. Chairman, it is true that farm machinery, by and large, moves free of duty between Canada and the United States. However, the basis for this is really very much different from the basis of the Automotive Agreement. You will remember that the United States in the '30s unilaterally provided for free entry of farm machinery principally as a contribution to meeting the problems of agriculture in the United States. In other words, it was a purely domestically oriented decision. Indeed, the decision in Canada, which was made in the 1940s, to move to free entry of agricultural machinery was also made purely on the basis of domestic considerations. So there is no agreement that is remotely similar to the Automotive Agreement between Canada and the United States applicable to the agricultural machinery trade.

Senator McElman: May we return for a moment to the total parts market in North America. Can we be given a relationship between the Canadian share of that total parts market at the coming into force of the pact as related to, for instance, 1974?

Mr. Arthur: We will endeavour to get that for you, senator.

Senator McElman: Is it not in the data we now have?

Mr. Arthur: No, senator.

Senator McElman: This, of course, is the principal area with which we are concerned, in which the great gap occurs, and it is rather important to get that information.

I would also like to ask what would be the effect if the 15 per cent tariff which now exists for private importation were removed between the United States and Canada.

Mr. Burns: Obviously, senator, this is a question of estimating the impact of the removal of the tariff. Presumably, one of the impacts of that kind of action would be an alternative opportunity for Canadian consumers who are close to the border to buy either in the United States or in Canada. I do not know what would actually lead from that kind of opportunity. It depends on consumer reaction to such a situation. It is clear that in some areas there would be a move by consumers to look to the alternative purchase opportunities which would be available in that circumstance. However, how far they would go, I am not sure. It would have an impact in my opinion on dealer organizations in Canada to the extent that consumers were to look in these terms. It is not possible to be very precise as to what this impact would in fact be.

Senator Grosart: What would be the relationship of the 15 per cent on the private purchase to the six per cent wholesale differential? What would actually be the saving to a Canadian consumer if he bought his car in the United States and did not have to pay the 15 per cent? There is a six per cent differential in price at the moment at the wholesale level. Now, there must be a relationship between the 15 per cent and the six per cent; in other words, it would not be a saving of 15 per cent.

The Chairman: It would be a saving, I suppose, of 15 per cent of six per cent.

Senator Grosart: No, because there are so many other elements involved.

Senator McElman: I was speaking, of course, as a New Brunswicker and I know what the impact would be in my part of the country, particularly when account is taken of the fact that the Volvo is assembled in Nova Scotia, shipped into central Canada and the central Canadian that car more cheaply than the Nova Scotian buys it. The price differential at the border area of St. Stephen, just across from the United States, would have the effect of causing the dealers to go out of business very quickly and there would be a saving of several hundred dollars on the part of the Canadian purchasers simply through driving a car a half a mile to purchase it across the border. To put it another way: what is the purpose of the 15 per cent tariff?

Senator Grosart: To prevent Canadians buying the cars in the United States; it is as simple as that.

Senator McElman: I realize that, but I would rather have the answer from the witnesses, if you do not mind.

Mr. Burns: If I may just return to Senator McElman's first comment: if one moved to eliminate the duty, that is only part of the differential from the consumer's point of view. There are federal sales taxes and provincial sales taxes in a good many provinces. Therefore one cannot look at that as being the sole reason for a difference from the private purchaser's point of view. Secondly, I suppose one must also comment that one of the principal objectives of the Automotive Agreement was to increase production and employment in Canada and to the extent that the 15 per cent tariff has some element of support to that objective, it has a purpose.

Senator McElman: So the fact of it, Mr. Chairman, is that in central Canada a Canadian buys his car at a much

lesser differential than do Canadians in the Prairies, British Columbia, eastern Quebec and the Atlantic Provinces. That is the effect on the poor benighted parts of the country.

Mr. Arthur: Senator, I do not believe that situation prevails in all areas of the country, nor do I believe that the existing differential about which you speak in the Maritimes would disappear, neccessarily, if the 15 per cent were removed in the sense of what would be paid in the Maritimes as opposed to other parts of Canada. It may be of interest to you to know that in British Columbia because of competitive conditions certain models reflect a wholesale price—which represents a negative differential when compared to the prices across the border on the west coast of the United States. So I really do not think the situation can be made to apply totally.

Senator McElman: I feel, from the point of view of my British Columbia friends, that it does not relieve the situation down East. The 15 per cent, in effect, is to protect the Canadian manufacturing industry, both of the assembled vehicle and the component parts, which exists in Ontario. Is that correct?

Mr. Burns: Mr. Chairman, one really has to go back to the chart we demonstrated earlier, which showed that ex-factory prices, taking out all the other factors: provincial taxes, state taxes in the United States . . .

Senator McElman: Excuse me. You cannot do that, because in the United States they have state taxes and federal taxes . . .

Mr. Burns: I was saying taking them out on both sides. The average price differential between Canada and the United States has diminished from 16 per cent to 6 per cent over the period of the automobile agreement. It suggests that if the full value of the tariff was being taken into account, there would presumably be a 15 per cent differential between those parts, and that is not the case.

The Chairman: No, because they are free of that 15 per cent on wholesale. Senator McElman's question is that if the 15 per cent were taken off, what effect do you think that would have on our share of the North American market?

Senator Grosart: And what percentage change would it make in the cost of an automobile in Canada, no matter where manufactured?

Mr. Burns: Mr. Chairman, taking the 15 per cent to the 6 per cent drop in the differential, I think our judgment would be that if one were to eliminate the tariff which now exists for private purchases, there would be further pressure on the 6 per cent. But I think we are ready to accept that there are probably some costs in distribution in Canada that are higher than costs in the United States, and that some part of that 6 per cent is due to that element. So that the extent to which consumers would want to have local dealers and local opportunities to purchase, there is some irreducible minimum of differential that might continue no matter what regime you put into effect.

Senator McElman: Perhaps the witnesses would like to cogitate on this a little and give us a further statement, not necessarily orally, but in writing.

The Chairman: Yes, because there are two or three questions here. There is the question you have just answered, to the effect that it would bring some downward pressure on the 6 per cent differential. But Senator McElman's question was somewhat different, in that if the 15 per cent were eliminated—not what effect it would have on the 6 per cent differential—what effect would it have on Canada's share of the North American market?

Mr. Arthur: In other words, senator, your question is, would it increase demand in Canada?

The Chairman: For American built cars, to the extent that we would get a smaller share of the overall market.

Senator McElman: I am sure that information is readily available on the ratio of purchases made in various parts of the country, and the frequency of purchases. I realize that it requires the putting together of a fair amount of data, but I think it is useful.

Mr. Arthur: Senator, we will certainly try to put that together for you. Behind your question is whether we can determine the price elasticity of demand for cars. A great deal of effort has gone into this. No one has really come up with a very accurate method of doing this calculation. We will certainly try, but this is one of the difficulties we shall experience in endeavouring to meet your request.

Senator McElman: It seems to me, Mr. Chairman, that since there is this 15 per cent tariff, and since it is still there, there must be a reason for keeping it. Those who are keeping it there must have some basis for keeping it, in statistical fact.

The Chairman: There must be some rationale for the 15 per cent.

Senator McElman: It would not normally remain, since we are trying to reduce tariffs between the two countries; so let us see what is the reason for keeping the 15 per cent.

The Chairman: I would agree with you.

Senator Grosart: Mr. Chairman, Senator McElman has raised a very important question. We should ask Mr. Burns and his staff to give us some concrete information. I suggest that it be done in this way. Obviously, the Canadian government considers that there is justification for maintaining this 15 per cent tax. In fact, my understanding is that it has been one of the most acrimonious points of dispute between us. The Americans have insisted that this be maintained. At times they have been willing to drop some other safeguards or to be more concessional on some of the others, but they have seemed to insist on the continuance of this 15 per cent.

It seems to me that the way to get at the information Senator McElman wants—and I think it is important to the committee—is to ask the department to take, say, three models of cars, and find out the price across the border at, say, seven or eight points across Canada. What could you buy a car at "X" in the United States, what would be the fringe costs, the state taxes, the American taxes, and so on; and what is the cost of that same car across the border in Saint John, and what is the differential to the consumer in Toronto or British Columbia? This is the essence of the whole question: What is the cost to the Canadian consumer of maintaining the 15 per cent? We can find it out. I could find it out. I could go across to Buffalo and say, "What can I buy a Chev X for," and come back to Toronto and say "What can I buy a Chev X for here?" That would give me the actual consumer differential. We should have this. It is essential to a justification of the continuation of the 15 per cent tax.

The Chairman: With respect, Senator Grosart, I have some difficulty in following your reasoning there, because the tax applies only to an importation retail. You can still import it wholesale. So the 15 per cent does not necessarily show up in a Buick Wildcat . . .

Senator Grosart: I do not know what the components of the cost are. All I want to know is what I can buy a Chev X for in Buffalo as against what I can buy it for in Toronto.

The Chairman: On average across the country, the evidence we have already is 6 per cent.

Senator Grosart: But Senator McElman's question is, to what extent is the retention of this 15 per cent tax merely the old protective device for the automotive industry in Ontario? Is that what you are getting at, senator?

Senator McElman: Basically.

Senator Grosart: To what extent is it still a protection for the industry in Ontario?

The Chairman: I think there are two questions. Firstly, yes, to what extent does the 6 per cent fluctuate as you go across the country, and what is the rationale for keeping the 15 per cent on at all within the free trade pact.

Mr. Burns: Mr. Chairman, we will be glad to respond to that, and certainly to the second question. With regard to the first one, I put in a qualification that to do this properly would involve having to look at the precise tax situation in each of the locales in which you wanted to make this comparison. The differential that we have described is a differential at wholesale levels, eliminating taxes on both sides of the border. If you start at the retail and go down, you would have to make a rather close examination to make sure that you have taken out the effects of municipal, state and federal taxes.

Senator Grosart: You do not have to worry about that. All you have to do is ask a dealer in Buffalo what the cost of that car is; and, if I can import it privately, as can a manufacturer, what is the difference in the price of buying it in Toronto? You do not have to ask what are the state taxes, or anything else. What is the cost to me, a Canadian, buying that car in Buffalo? I can find out tomorrow or I can find out in half an hour by making a couple of phone calls.

Mr. Burns: That obviously produces quite a different kind of differential than the one we have been talking about.

Senator Grosart: The essence of this, in the minister's statement, was the effect on the consumer. That is what I am talking about.

The Chairman: I see Senator Grosart's point. If it were not for the 15 per cent, a citizen in Vancouver or in Halifax will simply go down and buy his car in Seattle rather than buying it in Vancouver.

Senator Grosart: That is what I think they would do.

The Chairman: And pay the 11 per cent or whatever it is, but not pay the 15 per cent.

Senator McElman: Perhaps I can give you a very potent example of what is happening within the country.

Last year I wanted to buy a specific model of car and it was not available in my community. It was not a big car; it was a medium-sized car. I found it here in the Ottawa district. I realize that transporation costs were involved, but I saved myself in excess of $400. I did not pay the Ontario sales tax; I paid the higher New Brunswick sale tax and still saved in excess of $400. One would say that the only additional cost involved, aside from the extra sales tax I paid, was transportation.

Senator Croll: It was $400 between your home and here?

Senator McElman: That is correct. I am sure it does not cost $400 to transport a medium-sized car from Oshawa to Fredricton, New Brunswick.

Senator Grosart: The question I would like to ask Senator McElman is, did he find out what it would cost in Boston to buy the same car?

Senator McElman: No, I did not. I qualified this as within the country. Of course, that is part of the games that are going on within the country and it does not apply. The witnesses have it clear that we want two areas of answers, the one relating to this question, and the one relating to the question Senator Grosart asked. There are two sets of figures.

Senator Croll: We agreed that there was an increase in employment in Canada. The people in the automotive industry tell me that that was almost entirely in the assembly line, but in the research, development and engineering field, those jobs have almost disappeared since the 1965 agreement.

Mr. Arthur: Engineering?

Senator Croll: In Canada, that it has all moved over to the other side.

The Chairman: Research engineering.

Mr. Arthur: Prior to the Agreement, very little, in the way of design engineering, was undertaken in Canada. If any was undertaken, it related to those few models that were then sold in Canada, that were unique to the Canadian market. I would suggest that this did not amount to very much in the way of design engineering facilities.

There has never really been any substantial design engineering facility in Canada and certainly one would have to admit that none has developed since the Agreement. I do not think that the statement can be made that a great deal was lost in the way of engineering capability as a result of the agreement.

Senator Croll: There was considerable research done here for many years in the automotive industry, which has almost disappeared.

Mr. Arthur: If the research was done, it was not done by the automobile companies. There is still a certain amount of research being done in Canada, not by the automobile companies, but on behalf of the automobile companies in various institutions here. That has been going on for considerable time and is still going on.

In answer to the other part of your question which was that employment had taken place primarily in the assembly of vehicles as opposed to the parts production, I think you can see from chart 4 that parts and accessories have increased considerably more and, indeed, exceeded the number of people employed in the assembly operation in 1973.

The increase in parts employment over 1965 was roughly 42 per cent in 1973. In other words, the 1973 level of employment in the parts sector of the automotive industry was 42 per cent higher than it was in 1965, whereas assembly employment in that period was roughly 12 per cent.

Senator Croll: Our deficit on that was almost $12 billion.

Mr. Arthur: Our consumption of original equipment parts has increased by a much higher percentage. I would like to cover that point again. There has been a substantial increase from roughly 33,000 employees up to close to 50,000 employees in the parts manufacturing activity in Canada. That increase, as you can see, represented something like 35 per cent in 1973 over the 1965 level.

Mr. Burns: I want to be very careful not to mislead Senator Croll. We certainly accept the proposition that parts production in Canada has not kept pace with parts consumption in Canada. We acknowledge that. I believe I said earlier that that is one of the elements of the automobile agreement that is not entirely satisfactory.

I also wanted to be clear on the record that this is a question of two upward moving curves, moving at different rates. It is not one curve moving upward and the other moving downward. These are two upward moving curves. Clearly, the unsatisfactory part of it is the growth of differential between those two curves and not an absolute decline in the second one. It is sometimes thought that in parts production in Canada we are on an absolute declining curve. That is not the case.

Senator Grosart: For clarification, I would like to ask a question about this price situation. I am quite confused. The 6 per cent average differential, which we have now, is that consumer price, consumer retail price?

Mr. Arthur: No, sir, the 6 per cent differential is at wholesale. That is the wholesale price, the price of the car to the dealer; in other words, when the car comes out of the factory, that is where the differential is measured. That is excluding any taxes. Depending on where the car is sold. The federal sales tax is added to that, plus the provincial tax.

Senator Barrow: Plus transportation charges.

Mr. Burns: Plus the dealer's mark-up.

Senator Grosart: So, it is the consumer's price, and you are adding these things to it.

You see, what the average Canadian wants to know is the difference between what he buys a car for in Canada and what he can buy it for in the United States.

Mr. Arthur: You have to distinguish, in trying to make an accurate measurement, between the tax structure that exists in this country and the tax structure that exists in the United States.

Senator Grosart: I understand that.

Mr. Arthur: If at any time you try to measure the differential at retail, you are including in that retail comparison the taxes that exist, say, in Edmonton or in Alberta—or Ontario or Quebec as opposed to the price that vehicle would be sold for in say New York State or Pennsylvania.

The Chairman: And those taxes are applied on top of the six per cent.

Mr. Arthur: Yes.

Senator Grosart: Yes, but surely there must be information available to show what the effect of this automotive agreement has been on the cost to a consumer buying a car in Canada or buying it in the United States? I am not forgetting that a great many other considerations are involved, the whole of the Canadian industry, jobs and everything else.

Mr. Arthur: Senator, one of the difficulties would be that the tax structure in Canada, both federal and provincial, has changed during the 10 years from 1965. However, we will attempt to make that comparison and present it to you. Indeed, I do not believe there was a provincial tax in some provinces in 1965.

Senator Grosart: The problem sticking in my mind in connection with the six per cent and the 15 per cent is, for instance, I could go to United States and buy a car for $5,000. I presume that would involve a six per cent differential. I know it is not at the consumer level, but on average, somewhere, that six per cent differential will be involved in some element of the price to the consumer. That car would cost me in Canada, then, $5,300. If I were to buy that car in the United States and there was a 15 per cent tax, it would cost me $5,750. Now, I want to go from there and find out what the effect of this automotive agreement is, because part of the rationale, part of the public support for it, was for equalizing to some extent the consumer prices for automobiles. I know of many other aspects involved, and you could tell us you could do it tomorrow but it would wreck the whole automotive economy in Canada. I know this is a fact, but I still wish to know the effect of this.

Mr. Burns: Mr. Chairman, we have undertaken to provide a written statement and, to the extent we can get a precise example, acknowledging that to make any kind of comparison that will be sensible, one would have to consider the elements in the retail price, to the extent they can be made available, we will provide the statement.

Senator Grosart: But then you would say, "Here is the actual consumer price differential in Halifax; this is why."

Senator Barrow: If this differential is not charged to dealers, do you mean the average dealer in each locality, such as Halifax and Vancouver?

Mr. Arthur: The cars sold by the dealer are produced either in Canada or in the United States. If the car is produced in the United States and sold in Canada it is imported into Canada by the motor vehicle manufacturer. That motor vehicle manufacturer, providing he meets certain conditions, enters that car into Canada duty-free.

Senator Barrow: Then it is not the dealer who receives the benefit, but the automobile manufacturer?

Mr. Arthur: Senator, I would suggest that it benefits both the manufacturer and the consumer.

Senator Carter: Do you mean that if a duty-free car comes from a plant in the United States to a plant in Canada it is duty-free, but now it is six per cent cheaper than the one produced in the Canadian plant? Who receives that six per cent?

Senator Grosart: No; the six per cent is the differential in the laid-down cost of the car before costs of selling and taxes are added.

Mr. Arthur: That is correct.

Senator Grosart: All you are saying is that on average at that basic level of the cost of producing that car and delivering it to the manufacturer, whether he manufactures it or buys it, there is a six per cent difference at the moment in the cost.

Mr. Arthur: That is correct.

The Chairman: That is correct, and neither the manufacturer nor the retailer really gets the 15 per cent, I would suggest, Senator Barrow. Rather, where the 15 per cent comes in is if an ordinary citizen, not in the automobile business, buys a car in the United States he pays 15 per cent to bring it back to Canada.

Senator Barrow: I understand that perfectly, Mr. Chairman. The only thing is that we have been talking about the differential between the individual and the dealer, and it is not the dealer but the manufacturer.

The Chairman: You are quite correct.

Senator McElman: For example, St. Stephen, New Brunswick is across from Milltown, Maine, with just a river between. So, for example, a dealer in St. Stephen could not make a deal with a dealer in Milltown, Maine to take his stock of cars from that dealer. That, in my opinion, is an example which clears up any question of doubt.

The Chairman: Yes, I see the point, Senator McElman.

Senator Carter: How does the duty-free mechanism operate? Does the car come from the American plant to a Canadian dealer?

Mr. Arthur: No.

Senator Carter: It comes from the American plant to whom?

Mr. Arthur: To the motor vehicle company in Canada.

Senator Carter: To their branch in Canada?

Mr. Arthur: For example, if it is a General Motors car, produced in the United States, it is imported by General Motors of Canada.

Senator Carter: But when that General Motors car arrives at the General Motors plant in Canada, its cost is still six per cent less than a unit assembled in Canada; is that right?

Senator Grosart: It is the other way around.

Senator Croll: It is six per cent more.

Senator Carter: The unit from the United States would be six per cent more?

Senator Croll: Yes.

Senator Grosart: Are we not saying that the Canadian production costs would be six per cent more than the American production costs on average?

Senator Carter: I always thought that cars were cheaper in the United States because production was cheaper there, but now you are informing me that the unit produced in Canada is cheaper than that produced in the United States.

The Chairman: No, senator.

Senator Grosart: No; we never said that.

Senator Carter: I would like to be clear on one point. Is the car produced in the United States and delivered to the General Motors plant in Canada cheaper, or more expensive than the one assembled in Canada?

Mr. Arthur: The production costs, as such, would be very similar. The cost efficiency of the Canadian assembly plant would be comparable to any assembly plant in the United States.

Senator Barrow: Even though wages are higher in Canada?

Mr. Arthur: I am not certain that I can answer that question. My understanding is that there is parity in the contracts between Canada and the United States in the automotive sector.

Mr. Burns: Mr. Chairman, in all this discussion it is probably useful to bear in mind that the free entry for manufacturers is not an absolute right. The terms of the automotive agreement are such that it is a conditional free entry.

Senator Grosart: He has to behave himself.

Mr. Burns: In other words, the automobile manufacturer has to achieve certain objectives before duty-free entry is achieved. That is one of the items we will include in our written presentation in terms of the validity of the tariff.

The Chairman: The validity of the pact. We have a witness present in connection with the defence production sharing arrangement between Canada and the United States. It is close to 15 minutes to 12 o'clock. Senators may have other questions with respect to the Auto Pact. I know that personally I have three or four which I would like to pursue. We undoubtedly will be returning to this subject, as there is such a huge proportion of the trade between Canada and the United States, particularly in manufactured goods, involved, and we will certainly wish to have these witnesses or other representatives return when other parts of the subject might be settled. Otherwise, we could conceivably, at the expense of causing inconvenience to the witness who has come this morning, have him return on another day. We would then continue now with discussion of the Auto Pact. What is your pleasure?

Senator Macnaughton: I certainly would like to hear some discussion, or explanation, although we know something about it, obviously, of the general defence-sharing arrangement.

The Chairman: We can return to both of these subjects.

Senator Croll: Mr. Chairman, in my opinion we ought to exhaust the subject of the Auto Pact once and for all and obtain as much information as we can. If that requires holding another meeting for half an hour, let us do that.

The Chairman: There is the possibility of, I believe, having a spare day on March 16. We discussed yesterday the possibility of having one morning where we could, within the committee, simply discuss the information we have received to date, where it has taken us and where we should be going. That would not necessarily take all morn-

ing. If it would not inconvenience Mr. Jackman, perhaps he could come back on that date and we might do those two things on the one day, rather than rush him now.

Mr. Jackman: That is your option, Mr. Chairman.

The Chairman: I do not like to use up your morning this way, Mr. Jackman, but possibly you have found the discussion interesting. We might continue until noon with the Auto Pact, and then take a look at the other matter by itself on another day.

Senator Macnaughton: On March 16?

The Chairman: On the sixteenth, unless we can get Dr. Wonnacott on the sixteenth on the question of productivity.

Senator Croll: By the sixteenth we may have some of those written answers.

Senator Grosart: Mr. Chairman, the committee I attended earlier assumed that we were not going to sit that day. It so happens that these are the two committees which have the largest number of overlapping personnel. We expressed the hope that you and the other chairman would resolve the difficulty.

The Chairman: We have tried in the past, but unfortunately the times of committees are limited and we have had difficulty in finding a solution.

As chairman, I wonder if I might be forgiven if I get one or two points clear in my own mind. The first one is, Mr. Burns, that there has been a great deal of discussion about the imbalance of trade in the Auto Pact, amounting in total to $5 billion over the last 11 years, and, at this moment, this year, to almost $2 billion. However, on the same basis that I made a similar point the other day, that seems relevant to me only if an estimate is made as to what the trade deficit would be in automobiles and parts if there were no Auto Pact.

Have you any idea what that might have been? I might couple with that question the comment that all of your charts start in 1965, without showing any history prior to 1965. I wondered if you had statistics or charts that showed trends prior to that.

If I am correct in my recollection, one of the reasons for entering into the Auto Pact and seeking this arrangement with the United States was that we were afraid that our trade imbalance in automobiles and parts would increase in the future until it became intolerable for our economy to bear. Do you have any general comments on that?

Mr. Burns: Mr. Chairman, that raises a very complicated issue, because I suppose in 1965 one could assume that there were three options available: one, to move into an integrated kind of North American market in the way the government decided to do; secondly, to continue as we were, which was really in a protected atmosphere within the Canadian market, where the industry was by and large restricted to the Canadian market and where consumers were looking for greater and greater variety in the kinds of automobiles which they wished to consider purchasing . . .

The Chairman: And where our total production of the North American market was 4 per cent as opposed to 10 per cent, being our consumption share.

Mr. Burns: Thirdly, it would have been possible conceptually to have considered changing the automobile industry at that stage to an automobile industry which produced a car that would be significantly different from the American cars.

The Chairman: Like the Canadian Volvo.

Mr. Burns: There used to be something called the Beaver talked about at that particular stage. I suppose it would be feasible to think about how we might have developed in a 10-year period taking any of the other two options; but it would be a very "iffy" proposition. One would not really understand where we would be today if we had adopted either of those alternatives.

Senator Grosart: There were some assumptions made at the time to justify this deal. I do not remember what they were—futures assumptions.

Mr. Burns: That is right. Consumer preference in Canada—what would have been the effect on consumers moving into a specialized kind of car, in the light of the interchange that goes on between Canada and the United States.

The Chairman: For the record, we could possibly have the imbalance in trade, automobiles and parts in 1964 prior to the Auto Pact coming in.

Senator Carter: I remember that the year before we had a deficit of, I think, $500 million.

The Chairman: Which projected into today's costs. Let us say that the industry had remained the same. You mentioned several options. We made one choice. But if we had made no choice and had just carried on as we were, projecting it into today's costs at today's dollars, and today's consumption, what would that $500 million have turned into?

Mr. Arthur: Mr. Chairman, I can perhaps try to answer the question in a different way. We will do the projection you are asking for, but my recollection is that the imbalance experienced at that time represented something over 50 per cent of the total trade as a percentage of the total trade between the two countries in the automotive sector. In 1974, notwithstanding the fact that the imbalance in absolute terms was substantially greater, it represented 11 per cent.

The Chairman: That is the type of point that is important to get. Perhaps you could give us that over the intervening years. Nineteen seventy-four was a particularly off year.

Mr. Arthur: We could do that. I do not know we could project the information if the Agreement had not been in place, or determine what it might have been.

The Chairman: The year 1964 is a very good yardstick you have used. As a percentage of the total industry, our imbalance was 50 per cent. What was it in 1965 and the years following? My second question is that the charts you have shown us are most helpful, but become confusing because of the switches, particularly in parts, with model changes, compacts and large cars. We make the parts in Canada for the large cars and their sales fall off, and so on. We get a jerky reaction within the industry. The best evidence to me as to whether the pact has been a success or failure is the degree to which Canada has increased its share in both automobiles and parts in the total North American market—I mean the U.S.-Canadian market.

You must have those figures. They do not seems to be in any of the charts. I may have missed it. The closest thing I can come to it is in the notes we have on jobs. It says that employment in the Canadian industry as a percentage of the total North American industry has increased steadily from 8.6 per cent in 1965 to 11.2 per cent in 1975. I am assuming that jobs must come close to reflecting your percentage of the industry. It has to be a fair yardstick. Are we correct in that assumption? Did we have about 8,6 per cent of the industry in 1965, and do indeed we have about 11.2 per cent of the total industry in 1975? We all know that we have one-tenth of the U.S. population, so it would seem that we have our share of this total market. If we have, we do not have too much to complain about, except in the short run.

Senator Barrow: Mr. Chairman, should those charts not show also some of the reasons why the sales of automobile parts have fallen off, such as shortages of gasoline in 1974 and early 1975?

The Chairman: The charts will certainly show the reasons for the fall-off.

Senator Barrow: I think something like that should be shown.

Senator Croll: I asked the question and suggested three of four possible reasons, but the witnesses were not able to say yes or no.

The Chairman: As I recall, I think one of the witnesses did earlier today say that in the last couple of years there had been a number of unsettling factors in the industry. I believe that was in the evidence. I assumed by that remark he meant the oil crises and the economic downturn in the United States, the very sharp drop-off in sales of motor cars in the United States and the resultant effects on imports.

Senator Cameron: There is another factor that must be taken into consideration. The number of jobs required to produce X number of cars in 1970 is not the same as the number of jobs required in 1975 because of the factor of automation, which is a very big factor coming into play.

The Chairman: But as a share of the total, assuming automation is approximately the same in the two countries, I see these statistics as you could use. If we could have a better yardstick from the witnesses we would appreciate it.

Although Senator Grosart certainly touched on the subject in his reference to the statements made at the time the Automotive Pact was entered into, we have not today properly examined with you the safeguards on the Canadian side, what they are, how they work, which of them the Americans are objecting to, and why some Americans are objecting to the pact when it seems still to be providing a substantial balance of payments benefit in their favour, in spite of the fact that we have worked up to 10 per cent of the market.

Senator Carter: Is not their argument that we are taking away jobs, that although they have a balance of payments advantage they are losing jobs?

The Chairman: Those seem to be contradictory statements to me.

Senator Carter: That is the argument, as I understand it.

The Chairman: I would like to hear some evidence on that.

Senator Grosart: Mr. Chairman, you have raised the question of safeguards, which is very important, particularly from the point of view of this committee. On the assumption side, the safeguards were listed on page seven of the minister's statement, as it appears here.

The Chairman: I wonder whether, rather than squeezing these very substantive matters we have been discussing into the next fifteen minutes, including getting into the question of safeguards and American concern about the pact, we should not really say that we have done a nice job this morning and come back to it with these witnesses another day.

Senator Grosart: I agree. I am quite sure Mr. Burns and his staff will come back when they have sorted out some of the questions and found out what we were really asking. They might like to come back after they have fully sorted them out.

The Chairman: They would be able to bring some of the information we have requested. Then we could start in on the safeguards and the American objectives and where we go from here.

Mr. Burns: Perhaps I might intervene for a moment on the question of different perceptions in Canada and the United States. It is probably important to recall Mr. Arthur's outline of the three objectives of the Agreement. I think you have copies of the Agreement in the material we have supplied. I think it is very important to look at the three objectives. One is the creation of a broader market, in which the full benefits of specialization and large scale production can be achieved; secondly, the liberalization of United States and Canadian automotive trade, with a view to making the industries of both countries participate on a fair and equitable basis in the expanding total market; thirdly, the development of conditions in which market forces may operate effectively.

These three objectives I think bear very much on the kind of discussion which is taking place between Canada and the United States on the relative merits of this institution. Really the difference between the second objective, which is the question of enabling the industries of both countries to participate on a fair and equitable basis, and the third, which is developing conditions in which market forces may operate effectively, is the essence of the discussion as it relates to whether we should have safeguards or should not have safeguards, and how people on either side of the border view this Agreement. I would recommend that you reflect on those objectives in anticipation of our next meeting.

Senator Grosart: If I may say so, my questioning will indicate that I am not satisfied that those are the three main objectives, because documents refer over and over again to the consumer interest. You are looking at it from the point of view of the Department of Industry, Trade and Commerce, which is understandable. However, there is the consumer interest, which is mentioned in the agreement. In fact, there is a clear statement of concern for the consumer interest and consumer price in the minister's statement.

The Chairman: Senator Grosart, not to be facetious, you may be muddling up objectives and salesmanship.

Senator Grosart: No, I am not. I am quite sure that the consumer interest was as important as the others in the minds of those who structured this agreement.

Mr. Burns: I do not disagree at all with what you say Senator Grosart, that the question of the consumer interest in Canada was the important Canadian objective. What I think I was referring to was the actual formal Agreement between Canada and the United States that states explicitly the three objectives that I have outlined.

Senator Grosart: It also states explicitly the consumer objection too; it is in the Agreement, if my recollection is correct. I have not read it for some time. You say there are three, but in the third one it says:

> ... the important place that the automotive industry occupies in the industrial economy of the two countries in the interests of industry, labour and consumers.

We always have this problem that the consumer is on both sides: he has one interest as a consumer; and another interest, having a job.

Senator Carter: While you are getting this information, could we have a comparison of the prices of the same car in Canada and the United States just prior to the signing of the Auto Pact? My recollection is that a Chevy car in the United States was about $1,000 cheaper than the same model bought in Canada. There was a tremendous price spread, if I recall correctly.

The Chairman: You are quite right, Senator Grosart; at the time the Canadian public and the government stressed the fact that this pact would bring this closer into line.

Senator Grosart: That is right, because this was one of the basic consumer complaints about pricing in Canada, the fact that the western farmer could drive across the border and buy a car for $500 or $600, less. His argument was that he was doing this to protect Ontario industry. In Alberta they are now saying, "We never heard in those days of equalizing the consumer price," which we have decided to do with oil.

The Chairman: On the question of the 15 per cent being taken off at the retail level, it would seem to me that if we have accomplished 10 per cent of the total North American market you would develop a strong argument for saying that we have got our share, and why do we need our 15 per cent any more. That is the type of thing.

Senator McElman: Continuing your "facetious" remarks, Mr. Chairman, what perhaps Senator Grosart is getting at is that in some agreements, at least looking back at the consumer, political rhetoric plays a part as well.

Senator Grosart: Never!

Senator McElman: That, of course, is something the witnesses cannot comment on. There was a new element injected yesterday, Mr. Chairman, by the Canadian government into this whole picture. I guess you could call it an environmental issue with relation to the Canadian automobile manufacturers. I only heard it on the radio; I have not read about it. My recollection of the situation is that by 1978 all Canadian produced vehicles must be able to travel 24 miles per gallon. A few years later, they are to go up to, I think, 30 miles per gallon.

The Chairman: And a much heavier excise tax on large cars.

Senator McElman: The whole fact is predicated upon developing a North American industry where vehicles on both sides of the border are pretty well standardized. I would like to find out if the same regualtions are being adopted in the United States, because if they are not, obviously Canadian cars are going to be much more in demand. I assume there is going to be a parallel edict on the other side of the border. Currently we are producing largely the sub-compact, or the larger cars, which is it?

Mr. Arthur: The smaller cars.

Senator McElman: Therefore the trend, if that edict applied only to one side of the border, would obviously be in our favour because those cars would be in much greater demand in the North American market. One makes the assumption that the Canadian government is taking these things into account. It is perhaps sometimes not a valid assumption. It sometimes proves to be the contrary. Perhaps the witness could look at this new element and see what the effect is going to be, or if there is a parrallel plan to this legislation.

The Chairman: You are asking, Senator McElman, how closely Mr. Burns' former minister, now the Minister of Energy, Mines and Resources, consulted with his own department before coming up with this new policy.

Senator McElman: I appreciate that may not be altogether I.T. & C., but perhaps we will have the information anyway by the next appearance.

Mr. Arthur: Without dealing in specifics, the announcement that was made yesterday is in parallel with regulations that exist in the United States with respect to fuel economy.

Senator McElman: So, the effect will be nil.

The Chairman: As far as fuel economy is concerned, but how about the increased excise tax on larger vehicles, is that also in parallel with the United States?

Mr. Arthur: I do not know that, sir. There is no federal excise tax applying to the United States at this time.

Senator Carter: Now that we are entering a new era where everyone is conservation minded, and we will not change models as often as we have done in the past, and making cars to last longer, and that sort of thing, is that going to affect the situation? Have we similar arrangements on both sides?

Mr. Burns: If I could make a general observation, the technical requirements for automobiles in both Canada and the United States are going to be similar.

Senator Grosart: Except with different effective dates, because in some cases there is a two or three-year difference between the effective date in the United States and the effective date in Canada, according to the report I saw.

Mr. Arthur: When we appear the next time, Mr. Chairman, we will graphically show the requirements on both sides and the effective dates.

The Chairman: I only have one further matter for you to keep in mind for the next time. There has been very little testimony today relative to the impact of offshore imports into the working of the pact. I was interested in your statistics on the subject that imports make up currently 20 per cent of the United States consumption and only 13 per cent of ours. In view of their much larger total

consumption than ours, this is a very significant difference, it seems to me, and, therefore, what effect does that have on Canadian production under the pact?

Senator Grosart: Another question I would like to have answered—and this perhaps should come from the automotive manufacturers themselves—is, why do we buy Japanese-made cars, German-made cars, French-made cars and so on? Why has it not been possible to develop a Canadian car? We used to have them. I owned a Kirby once, and I remember owning a car called a McLaughlin-Buick.

The Chairman: I can remember them.

Senator Grosart: What has happened? Why is a country, which is as advanced industrially as we are not able to do what the Japanese have done? Even the Brazilians have a car now.

Senator Carter: Yes, and Sweden.

Senator Grosart: Everyone in the OECD has a car but us.

The Chairman: Maybe in North America we do not want to go the route of Mr. Kaiser who blew $400 million in trying to break into the market, and recently Mr. Bricklin.

Mr. Burns: I suppose that is more of a general question in the sense of why do we buy the same kind of refrigerators, or why do we watch the same television programs. It is a social phenomenon as well as an economic phenomenon.

Senator Grosart: The car is an exception to this universal factor. Everyone was wearing mini-skirts but they were not all driving the same car. They were not all in the same position which we are in, of not manufacturing cars. We manufactured mini-skirts and good ones.

Mr. Burns: Without being argumentative with Senator Grosart, if you look at the style of refrigerators sold in Europe or Japan, you would find it a somewhat different kind of piece of equipment than is normal in North America.

Senator Grosart: That is exactly what I am saying. Why do we not have a piece of equipment that is different and marketable around the world? We do it in other lines very competitively.

Senator Carter: I have a question following upon a question previously asked. You were asked to check into whether our Canadian plants are geared mainly to large-sized cars. The trend now is to smaller ones.

The Chairman: It is the other way around.

Senator Croll: It is for smaller cars now.

Senator Carter: Looking into the future, when everyone is talking about more mileage, you cannot get more mileage unless you have smaller cars, lighter cars. Therefore, the trend overall in the furture is going to be towards lighter cars and smaller cars for more economy and for conservation of both fuel and materials.

Senator Grosart: That is not neccessarily so, because the trend in the United States at the moment is once again to bigger cars. As soon as they got over their scare, the trend has gone back to bigger cars.

The Chairman: The evidence we have, Senator Carter, is that the Canadian portion of the North American industry, not totally but in most cases, or on balance, is for smaller cars, with the larger ones being made in the United States plants.

Mr. Arthur: Yes.

Senator Carter: If there is a demand for the small cars in the United States, the plants will follow that demand. I am thinking about safeguards for jobs in Canada. They could very well concentrate on the small car in the United States and leave us with what we have, which wouldn't suit their market.

Senator Grosart: We have the small car production.

Senator Carter: We do not have very much of it.

The Chairman: The evidence this morning, Senator Carter, was that the Canadian production lines are producing the smaller models, not the larger models, and that is the reason for part of our problems at the moment. That is the evidence we have received so far today.

Senator Grosart: Because they have switched to larger cars at the present time in the United States.

Senator Carter: Why do we have all this difficulty?

The Chairman: Firstly, the United States market has been down very badly in total, and, secondly, they are switching to bigger cars.

Senator Carter: Do I understand there would be no problem with unemployment if they could suddenly transfer their production to the United States and leave us with small parts? Are we still in a position to compete in the market?

Senator Croll: At the moment.

Senator Carter: I am not thinking of only at the moment but what is likely to be the case in five years' or ten years' time and how we are safeguarding against that.

The Chairman: We have put before our witnesses a number of questions which they will need to spend some time on gathering some information for us.

In the meantime, I would like to thank you again, Mr. Burns, for coming today, and also all of your confrères. We look forward to seeing you again at such a time as we can work out in the schedule. We will be in touch with you in that connection.

Once again, I wish to apologize for not being able to move on to the other subject this morning, but we will do that when the schedule is worked out.

Senator McElman: Mr. Chairman, you have not disposed of the matter of including the charts in the record. Since the automotive trade pact is one of the most important areas for consideration, in my opinion they should be included as part of the record, especially as graphs and charts are the cheapest items to reproduce.

The Chairman: I quite agree with you, Senator McElman. There are only four or five pages of them and we can include them in the record.

Senator Grosart: With the caveat that we should make the minor correction in chart number 6.

Senator Carter: Where the charts provided on paper identical with those shown on the screen?

The Chairman: Yes, senator; they are identical.

The committee adjourned.

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PROCEEDINGS OF THE

STANDING SENATE COMMITTEE ON

FOREIGN AFFAIRS

The Honourable GEORGE C. van ROGGEN, *Chairman*

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THURSDAY, MARCH 11, 1976

Complete Proceedings on Bill C-85, intituled:

"An Act respecting immigration security"

REPORT OF THE COMMITTEE

(Witnesses: See Minutes of Proceedings)

THE STANDING SENATE COMMITTEE
ON FOREIGN AFFAIRS

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The Honourable Allister Grosart, *Deputy Chairman*

and

The Honourable Senators:

Asselin	Lafond
Barrow	Laird
Bélisle	Macnaughton
Cameron	McElman
Carter	McNamara
Connolly (*Ottawa West*)	Rowe
Croll	Sparrow
Hastings	Yuzyk

Ex officio Members: Flynn and Perrault.

(Quorum 5)

NOTE: Following the March 9, 1976 meeting and prior to the March 11 meeting, the Honourable Senator Smith (*Colchester*) was made a member of the committee in place of the Honourable Senator Asselin.

Order of Reference

Extract from the Minutes of the Proceedings of the Senate, of Wednesday, 3rd March, 1976:

Pursuant to the Order of the Day, the Senate resumed the debate on the motion of the Honourable Senator Langlois, seconded by the Honourable Senator Perrault, P.C., for the second reading of the Bill C-85, intituled: "An Act respecting immigration security".

After debate, and—
The question being put on the motion, it was—
Resolved in the affirmative, on division.

The Bill was then read the second time, on division.

The Honourable Senator Langlois moved, seconded by the Honourable Senator Perrault, P.C., that the Bill be referred to the Standing Senate Committee on Foreign Affairs.

The question being put on the motion, it was—
Resolved in the affirmative.

Robert Fortier,
Clerk of the Senate.

Minutes of Proceedings

Tuesday, March 9, 1976
(30)

Pursuant to adjournment and notice the Standing Senate Committee on Foreign Affairs met at 2:35 p.m. this day to consider Bill C-85, intituled: "An Act respecting immigration security".

Present: The Honourable Senators van Roggen (*Chairman*), Bélisle, Carter, Connolly (*Ottawa-West*), Croll, Grosart, Hastings, Lafond, Laird, Macnaughton, McElman, McNamara and Yuzyk. (13)

Present but not of the Committee: The Honourable Senators Forsey, Haig, Langlois, McDonald and Smith (*Colchester*). (5)

In attendance: Mrs. Carol Seaborn, Special Assistant to the Committee and Mr. R. L. du Plessis, Acting Law Clerk and Parliamentary Counsel.

Witnesses: From the Department of Manpower and Immigration:

Mr. A. E. Gotlieb, Deputy Minister; Mr. Warren Black, Legal Counsel; and Mr. T. B. Shaheen of the Facilitation, Enforcement and Control Branch.

Mrs. Chalotte McEwen, Member of National Council of Voice of Women and Member of Ottawa Public Affairs, Group of Voice of Women; and

Dr. Don Whiteside, President, Canadian Federation of Civil Liberties and Human Rights Association.

A submission from Parkdale Community Legal Services (Toronto), addressed to the Honourable Robert Andras, was tabled and on motion of Senator Croll,

Ordered,—That the above-mentioned document be printed as *Appendix "A"* to this day's proceedings.

At 5:18 p.m. the Committee adjourned to the call of the Chairman.

Thursday, March 11, 1976
(31)

Pursuant to adjournment and notice the Standing Senate Committee on Foreign Affairs met at 10:05 a.m. this day to further consider Bill C-85, Intituled: "An Act respecting immigration security".

Present: The Honourable Senators van Roggen (*Chairman*), Carter, Connolly (*Ottawa-West*), Flynn, Grosart, Lafond, Laird, Macnaughton, McElman, McNamara, Rowe, Smith (*Colchester*), Sparrow and Yuzyk. (14)

Present but not of the Committee: The Honourable Senators Buckwold, Forsey, Haig and Smith (*Queens-Shelburne*). (4)

In attendance: Mr. R. L. du Plessis, Acting Law Clerk and Parliamentary Counsel; Mrs. Carol Seaborn, Special Assistant to the Committee and Mr. T. B. Shaheen, of the Facilitation, Enforcement and Control Branch, Department of Manpower and Immigration.

Witnesses: From Department of Manpower and Immigration: Honourable Robert Andras, Minister; Mr. A. E. Gotlieb, Deputy Minister; Mr. Warren Black, Legal Counsel.

The Committee proceeded to a detailed consideration of Bill C-85.

On Clause 2: In amendment, Honourable Senator Smith (*Colchester*) moved the following:

> 'That Bill C-85 be amended by inserting after the words "and who, in" in the 10th line thereof the words "the opinion of the Ministers and the Solicitor General certified by them to be based upon security or criminal intelligence reports received and considered by them" '.

The question being put the amendment was defeated on a vote of yeas—3; nays—8.

Clauses 1 to 4 inclusive and the title of the Bill were carried.

The bill was adopted without amendment, *on division,* and the Chairman was instructed to report accordingly.

On motion of Senator Macnaughton,—

Resolved,—That notwithstanding the resolution passed on October 24, 1974 respecting the printing of Proceedings, this Committee print 800 copies in English and 300 copies in French of its Proceedings in relation to Bill C-85.

At 11:08 a.m. the Committee recessed to reconvene later on another matter.

ATTEST:

E. W. Innes,
Clerk of the Committee.

Report of the Committee

Thursday, March 11, 1976

The Standing Senate Committee on Foreign Affairs to which was referred Bill C-85, intituled: "An Act respecting immigration security", has, in obedience to the order of reference of Wednesday, March 3, 1976, examined the said Bill and now reports the same without amendment.

Respectfully submitted,

George C. van Roggen,
Chairman.

21105—2

The Standing Senate Committee on Foreign Affairs

Evidence

Ottawa, Tuesday, March 9, 1976

The Standing Senate Committee on Foreign Affairs, to which was referred Bill C-85, respecting immigration security, met this day at 2.30 p.m. to give consideration to the bill.

Senator George van Roggen (*Chairman*) in the Chair.

The Chairman: Honourable senators, I call the meeting to order. As a result of the Senate's referring Bill C-85 to this committee last week, I took the liberty of postponing the attendance of the other witnesses we had schedule for today with respect to our study of Canada-U.S. relations in order that we may deal with this bill. Bill C-85 is entitled the Temporary Immigration Security Act. We have with us today the Deputy Minister of Manpower and Immigration, Mr. Gotlieb, and officials of his department. I am informed that the minister is absent from the city.

Mr. Gotlieb, if you would make an opening statement, we would then be prepared to proceed to questioning by members of the committee. Copies of Mr. Gotlieb's statement will now be distributed.

Mr. A. E. Gotlieb, Deputy Minister, Department of Manpower and Immigration: Thank you, Mr. Chairman. I would like to express my thanks for the invitation which you extended to the Minister of Manpower and Immigration and his department to appear before this committee to provide clarification on the Temporary Immigration Security bill. Unfortunately the minister is away from Ottawa this week, and I am accordingly appearing before the committee on his behalf. I and my colleagues, Mr. Sheehan, the Director General of enforcement activities in the department, and Mr. Black, the departmental legal edvisor, are at your disposal to try to answer any questions you may have. Before doing so, I would like to clarify a few points which were raised during the debate on second reading in the Senate.

During the second reading debate it was stated that in practice the new ministerial power would inevitably be exercised on the opinion of immigration officials. Clause 2 of the bill provides that the Minister of Manpower and Immigration may make a deportation order and speaks of the minister himself. I would like to assure this committee that there is absolutely no intention of having these special powers exercised by immigration officers or other departmental officials. The authority under the temporary bill would be vested in the minister and the minister would involve himself personally in any case in which this special power might be used. The minister has stated that the deportation of any person without a hearing would be made only if the minister were completely satisfied that he is acting on reliable and substantial information indicating that the person concerned is likely to engage in violent criminal or political activities in Canada.

That is a mistake. It would be "violent criminal activity".

Senator Connolly: The act says "acts of violence."

Mr. Gotlieb: That is right: "acts of violence . . . or . . . violent criminal activity."

Senator Macnaughton: Are you leaving out the word "political"?

Mr. Gotlieb: Yes.

The Chairman: I trust it was not a Freudian slip.

Senator Grosart: That is what some of us have been afraid of.

Senator Macnaughton: Are you leaving out the word "political"?

Mr. Gotlieb: The word "political" should not be there. The deportation could be issued in the case of a person who in the opinion of the minister "is likely to engage in acts of violence that would or might endanger the lives or safety of persons in Canada or in other violent criminal activity— "

Another point which emerged in the debate concerned the grounds on which the minister could form an opinion, and it was proposed that the words "on reasonable grounds" be added in clause 2. This type of amendment was discussed previously with legal officers of the government, and was raised also during discussion in the committee of the whole in the House of Commons. There are two problems with the proposed amendment, as we see them. The first is that it would open up the possibility of judicial review as to the reasonableness of the grounds for the minister's opinion, and, in such a situation, because the minister might not be able to reveal sufficient information, he thus might not be able to substantiate his opinion, even though he had, in fact, acted on reliable information.

The jurisprudence in this case is relevant, and there was a recent decision in a case in the Ontario courts, in 1975. I refer to *Armstrong Commercial Investigators of Canada Limited.* The court held that there was a statutory provision which required an official to act on reasonable and probable grounds. The court held that the court could review whether the grounds were, in fact, reasonable and probable. Accordingly, it should be made clear that if such a phrase is in there, it does become reviewable by the courts.

Senator Connolly: Mr. Gotlieb, would you mind giving the reference to the Armstrong case? You said it was 1975. Is it the Ontario Court of Appeal?

Mr. Gotlieb: It is the Ontario High Court of Justice, 1975, 9 Ontario Reports, 2nd page 284.

Senator Connolly: Nine or 2; is that correct?

Mr. Gotlieb: Yes.

Senator Smith (Colchester): What is the full name?

Mr. Gotlieb: The full name is *Re Armstrong Commercial Investigators of Canada Limited et al and Turner et al.* I believe that is consistent with previous case law in this area.

So that would become a reviewable matter, it appears, and this would, in fact, create the problem that was mentioned by the minister when he presented the bill earlier, that the nature of the information could not always be brought forward. In that event, presumably, it would be difficult to establish the reasonable grounds before the court.

The second problem is that the amendment would not be consistent with the present scheme of the Immigration Act. As the minister has stated on previous occasions, he does have the power to deport someone who is in Canada as a visitor. He has the power, under the act, which is of long standing. It confers it expressly on the minister. To do this, he is not required to meet the test of reasonable grounds. There are two provisions in the act which clearly spell out that he has the power himself to issue a deportation order in the case of a non-immigrant in one instance, and in the case of people on permit in another.

In the case of a non-immigrant, he can issue the deportation order and there is no specific requirement in the act for reasonable grounds. I can and will assure the committee that he will never take such action without reliable information.

I should also emphasize that it has been held by the Supreme Court of Canada that no matter how absolute a discretionary power appears to be, it must nevertheless be exercised in good faith and in accordance with the objectives of the statute. Under the jurisprudence of Canada as it exists, powers cannot be exercised in a purely arbitrary fashion.

Senator Connolly: Have you the reference holding the Supreme Court of Canada to that?

Mr. Gotlieb: Yes: *Frank Roncarelli vs. the Honourable Maurice Duplesis.*

Senator Connolly: Have you the citation?

Mr. Warren Black, Director of Legal Services, Department of Manpower and Immigration: I can give you the year of the Supreme Court Reports. I do not have the exact page. It is 1959, SCR, *Frank Roncarelli vs the Honourable Maurice Duplessis.* It is a famous case.

Mr. Gotlieb: There are those three fundamental points. One, under Canadian case law and its jurisprudence, the specifications in the statute that there must be reasonable grounds does make the matter reviewable before the courts as to whether, in fact, those grounds are reasonable. Secondly, in the absence of those provisions, there is nevertheless a duty on the part of the exerciser of the power to exercise it in good faith and in accordance with the objectives of the statute. Thirdly, that the existing scheme of the act, in so far as it concerns people within Canada, and in so far as the provisions of the act relates to non-immigrants within Canada, persons can be deported by the minister under the act and there is no test of reasonable grounds in the act as it now stands.

So in this instance, as a result of the bill now before you, to apply the test of reasonable grounds at ports of entry—that is to say, for persons who have not acquired any rights as visitors or were even in the country as visitors—it would be, it seems to us, to impose in effect greater limitations on the minister's powers vis-à-vis visitors seeking to enter Canada than now exist vis-à-vis those who are or will be within Canada and who may be the subject of a ministerial deportation order under the Immigration Act.

Providing that specification under this act, far from giving the minister powers that perpetrators of violence or violent acts, would, in fact, subtract or move away from the powers he now has under existing legislation.

I would also like to touch on the third point that was raised in the earlier debate; namely, the urgency of the legislation. The minister and the government regard it as urgent. The Olympics and the Habitat conference are not far off and regretfully we must anticipate the possibility that individuals with terrorist connections may seek to enter the country.

The final point that was raised related to the expiry date of the bill. As the minister said in the house committee, there are weaknesses in the present Immigration Act and it is his intention to submit new legislation to Parliament in the course of the current year. He has made that quite clear. The national security aspects of immigration will certainly be dealt with as part of the new act. It will, of course, be the subject of full debate, as will be the entire act. In the meantime, he explained that the present temporary bill is intended to provide protection primarily for the summer Olympic Games and for a reasonable clean-up period thereafter—that is, for a reasonable period in which people who came in during that time may remain in the country.

I have tried to focus, Mr. Chairman, on the principal points that were raised in the earlier debate. I have not touched on all of them, but I hope that I have provided some clarification.

The Chairman: Are there further presentations which you wish your associates to make now, or shall we proceed to questioning?

Mr. Gotlieb: My associates are here to assist me, Mr. Chairman, and, along with myself, will be glad to answer any questions members of the committee might have.

Senator Laird: Mr. Chairman, I should like to point out to our witnesses that the principal concern, as I understand it from private conversations, is why this legislation should be extended to December 31, 1976. Are you in a position to provide us with the mechanics as to why the department feels that this expiry date is necessary?

Mr. Gotlieb: Mr. Chairman, any date selected by the government would have been arbitrary to some extent. A date somewhat subsequent to the end of the games was chosen because of the great influx of visitors expected to the games. We have reason to believe, on the basis of past experience in other countries, that there could be persons coming into Canada whose intentions might be to carry out violent acts.

Senator Laird: Yes, but if they are prevented from getting in, bearing in mind that the only purpose of this legislation is to protect visitors to the XXIst Olympiad plus the Habitat Conference, at least in theory no prospec-

tive terrorist should ever get into the country. Therefore, the length of time over which the legislation will be in force is, I think, of concern to some people.

Mr. Gotlieb: If I may make a comment on that, the legislation would apply to those in the country as well as those seeking to enter Canada. Notwithstanding the powers set out in this legislation, unwanted persons may still gain entry into Canada. Because of the many millions of visitors expected, some undesirables may go undetected at ports of entry, making it necessary to remove them as quickly as possible once detected.

Clause 2 of the bill states:

> The Minister of Manpower and Immigration may make a deportation order against any person who is not a Canadian citizen and has not been lawfully admitted to Canada for permanent residence . . .

So, the person may be in Canada, although not lawfully admitted for permanent residence. This legislation would not apply to landed immigrants. The individual concerned might enter Canada lawfully as a visitor in the sense that, notwithstanding that he was a terrorist, he went unidentified at the port of entry, and if we subsequently learn, through information, of his identity, then we would want him removed as quickly as possible.

Senator Forsey: Mr. Chairman, I wonder if you could ask the interpreters not to rattle their papers. It is very hard to hear over this almost incessant rattle of papers; also, it is as though someone is hammering something somewhere, tapping, and I find it very hard to catch what is being said. I don't know whether anybody else is having this difficulty, but certainly this colossal rattling of papers is distractive. I can see the papers being turned over, so if that could be stopped it might enhance my understanding, at least.

The Chairman: Senator Forsey, I do not know whether we can do much about the hammering, but we will certainly see that the papers are kept quiet.

Senator Bélisle: Mr. Chairman, is it possible that the word "political" was used because the department wanted to deal with the political activities after the games and the Habitat Conference?

Mr. Gotlieb: What was meant was those engaging in any violent criminal activities. The word "violent" was meant to qualify the whole phrase. The word "political," in my opinion, should not have been put in, because it is covered by the phrase "violent criminal". But it must be violent criminal activities in Canada. The word "violent" modifies the whole phrase.

There is no question of this act being used in the case of anyone engaged in political activities. It can only be used against people who are engaged in violent criminal acts or other forms of violence.

I apologize for any confusion in that regard. I think the bill is extremely explicit in that respect.

Senator Connolly: The bill states:

> . . . in acts of violence that would or might endanger the lives or safety of persons in Canada or in other violent criminal activity if admitted to Canada . . .

Senator Laird: Mr. Chairman, in an effort to help relieve Senator Bélisle's mind, there is no power in this legislation to throw any Conservatives out of the country!

Senator Bélisle: That is not the case. It would be the government that would be thrown out!

The Chairman: Senator Yuzyk.

Senator Yuzyk: Mr. Chairman, perhaps we could hear all of the witnesses before proceeding to questioning.

The Chairman: There are other witnesses to be heard. I am in the hands of the committee in that regard. While I did not mention it specifically at the commencement of the meeting, I thought we would follow the usual procedure and hear from each witness or group of witnesses at a time.

Senator Croll: Mr. Chairman, before we finish with the witness . . .

The Chairman: We are not finishing with the witness. Senator Yuzyk raised the point that we should hear all the witnesses before proceeding to questioning. I think that is a rather unusual procedure. If members of the committee are agreed, I think we should conclude our questioning of these witnesses before going to the next witness.

Senator Croll: But some questions may arise, as a result of the subsequent presentations, that these witnesses will be able to answer.

The Chairman: They can always be recalled.

Senator Croll: As long as they will be here, that is fine.

The Chairman: Senator Smith.

Senator Smith (Colchester): Mr. Chairman, I should like to explore, if I may, the question of urgency. There is nothing new about the fact that the Olympic Games are going to be held in Canada, nor, for that matter, the habitat Conference. It has been known widely, not only in Canada but elsewhere, for a long time that these two events will take place in Canada during the course of this year. Having that in mind, I am wondering why it is that the urgency has just been perceived.

Mr. Gotlieb: Mr. Chairman, I do not know how best I can reply to that question. The urgency has not just been perceived. We have been aware of the dangers that could be involved in staging these two events in Canada, and for that reason it was planned to bring forward a bill in that respect. Had the major legislation in respect of the Immigration Act been already brough forward, this issue may have been dealt with in this or some other way. What is involved in that legislation, of course, is a complete review of the present act. That legislation has not yet been tabled, although it was indicated by the minister that it is expected to be tabled in the course of this year.

In the meantime, we are operating under the present act, and it is very clear to us that the act, as it now stands, is not adequate to deal with the kinds of situations with which we could be faced.

Section 5(1)(m) and (n) of the present act deal with subversive activities, and there is a lack of clarity, to some extent, in those provisions. Some of them have not been tested, and there is some doubt about the effect of those provisions as they apply to non-democratic countries.

The current act, which was drafted in 1952, deals with subversion against democratic institutions only as opposed to subversion or violence against countries with other types of institutions, which means, in fact, that its ambit is quite limited, and a great deal of interpretation and dis-

pute could be involved in the precise application of those provisions.

Somebody is coming into the country and you are aware they are going to commit an act of violence against a third country, which may or may not be democratic, there is a very reasonable doubt whether or not the current act would be adequate to deal with that situation once that person was in the country. There is no question that the act is not adequate to deal with people who are not in the country but are seeking to come in. The government therefore decided to bring forward this bill. The timing, however, was related, as I think I mentioned, both to the progress in terms of the overall act, to the interpretation of the current act, and to the imminence of the Olympics themselves.

The Chairman: Senator Smith, I might add that while obviously the government would like the bill passed as quickly as reasonably possible, I see nothing in the witness's testimony to indicate a level of urgency which would need us to either cut short or inhibit in any way the investigation by this committee.

Senator Smith (Colchester): Thank you Mr. Chairman. Could the witness explain to us the difference in procedure that exists under the present legislation in order to deal with those who are thought to be subversive and the procedure that will be followed when this bill becomes law, if it does?

Mr. Gotlieb: Under the existing act, if somebody arrives at a port in Canada and there is information to indicate that person is going to engage in violent criminal activity in the country against a third state . . .

The Chairman: Could I interrupt you at this point? I would remind you that many of us are laymen in this area. You might even wish to go back a little further in fundamentals in dealing with people arriving at the boundary, and comment on the conditions under which people can come into Canada, in what categories they come, what their rights are, and if they come under different categories. It might be as well to have that for the record, and certainly for myself.

Mr. Gotlieb: I will try to do that. I hope I can be reasonably clear. In doing so, without in any way disagreeing with your comment about the urgency, I think I can at least bring out what powers the government is lacking, and why it is felt undesirable not to have the powers to deal with terrorism today.

When a person comes to Canada as a visitor, or on any other basis, he must comply with Canadian law. In section 5 of the Immigration Act, 1952, there is a list of prohibited classes of people who cannot come into Canada. Section 5 contains a long list, although in many ways it is not the most up-to-date statement, of classes of persons it is desirable or not desirable to have in this country. The section lists among prohibited classes the people who are idiots, imbeciles or morons, who are insane, have constitutional psychopathic personalities, persons who are epileptic, persons who cannot support themselves, prostitutes, homosexuals, persons living on the avails of prostitution or homosexualism, pimps, persons who attempt to bring into Canada or procure prostitutes for the purpose of prostitution or homosexualism, professional beggars or vagrants, persons who are public charges, persons who are chronic alcoholics, persons who are addicted to the use of any substance that is a narcotic. There is a general reference to criminals in section 5(d), which says:

> persons who have been convicted of or admit having committed any crime involving moral turpitude.

Except people who have been rehabilitated or can show evidence of rehabilitation. There is also in the same section a list dealing with subversion:

> persons who are or have been
>
> . . . On or before June 1, 1953 . . .
>
> members of or associated with any organization, group or body of any kind concerning which there are reasonable grounds for believing that it promotes or advocates or at the time of such membership or association promoted or advocated subversion by force or other means of democratic government, institutions or processes, as they are understood in Canada.

The next category is:

> persons who have engaged in or advocated or concerning whom there are reasonable grounds for believing they are likely to engage in or advocate subversion by force or other means of democratic government, institutions or processes, as they are understood in Canada.

The next category is:

> persons concerning whom there are reasonable grounds for believing they are likely to engage in espionage, sabotage or any other subversive activity directed against Canada or detrimental to the security of Canada.

If an immigration officer believes that the person is a prohibited person, there is an inquiry; a special inquiry takes place, which is an open proceeding in the sense that any interested person can attend. If he finds there are grounds to believe that the person falls within these prohibited classes . . .

Senator Grosart: If who finds?

Mr. Gotlieb: The special inquiry officer, as he is called under the act. If he finds the person falls within these prohibited classes, he is given authority, power by Parliament under the 1952 act. If he finds the person falls within these classes, on the basis of a hearing that he presides over, he must order the person deported; the person must be deported by law forthwith. There are exceptional situations where a person can be given a minister's permit. This is what is done in the case of epileptics or people with mental diseases; the minister does on humanitarian grounds give permits. As you can see, many of these provisions are old ones, but they are still part of the law of Canada, and, as such, unless there is a permit, the person is prohibited from coming into the country.

Information has to be available to the person at the port of entry, and then he must present it to that person, who is often accompanied by a lawyer; a decision is made and he can be ordered to be deported.

There is an appeal from that decision in only four cases. The appeal rights exist only if, first, the man has a visa as a landed immigrant, he has a permanent visa to come and stay and live in Canada as a landed immigrant. If such a person is ordered deported by the special inquiry officer he has an appeal to the Immigration Appeal Board. A second category of people who have an appeal right consists of those visitors in possession of a non-immigrant visa inserted in their passports or documents abroad; they have a

right of appeal at a port of entry, and only at a port of entry. A third category with the right of appeal are persons who claim to be refugees; such claims will be heard by the Immigration Appeal Board. A fourth category is those persons who claim to be Canadian citizens. Those are the four categories of people who have appeal rights to the Immigration Appeal Board.

Senator Laird: Where did they stay in the meantime? Are any of them allowed into the country pending the hearing?

Mr. Gotlieb: Yes, they would all be in the country pending the hearing. If there was any reasonable ground or any reasonable belief that they would leave or disappear—most cases can take voluntary departure, at least, with the consent of the minister—however, if they are still here and there is a likelihood that they may disappear into the country and become an illegal immigrant, they are detained pending an inquiry.

Senator Laird: In Canada?

Mr. Gotlieb: Yes.

Senator Laird: Is that not another good reason for the necessity of this bill before us? After all, if you do not treat the potential tourist in a special category, then he would be allowed into the country and theoretically he may be detained but then he might escape.

Mr. Gotlieb: He might escape or he might be assisted to escape, but normally these people are held in hotels which are reserved for that purpose, and occasionally in jails, if hotel space is not available.

Senator Smith (Colchester): They are in custody unless they are released?

Mr. Gotlieb: They are normally in custody if it is believed that they may likely escape.

All deportation orders spring from the special inquiry officer's hearings. The minister, does have direct powers under the act. They are in this act today. There are two of them in particular. One is in section 7 (4) of the Immigration Act of 1952.

Subsection (4) reads:

> Where any person who entered Canada as a non-immigrant is in the opinion of the minister

This does not specify reasonable grounds.

> a person described in paragraph 18 . . .

This is paragraph 18 of the Act and that really incorporates the offences in section 5, where the minister is of the opinion that a non-immigrant is a person described in section 18—that, in fact, is section 5 in a different form, the list I have just read—if he has reason to believe he is in those classes, the minister may at any time declare that such person has ceased to be a non-immigrant and such person shall thereupon cease to be a non-immigrant.

Section 5 reads:

> The Minister may make a deportation order against a person referred to in subsection (4).

Therefore, the minister without going to an inquiry, has the power under the Immigration Act, although not normally used—and it has been there for many years, I believe prior to 1952—to issue a deportation order.

Senator Grosart: You say he may declare a non-immigrant a non-non-immigrant. What do you mean by that? If he is a non-immigrant, you say the minister may declare him a non-non-immigrant.

Mr. Gotlieb: He may declare that he has ceased to be a non-immigrant. If he ceases to be a non-immigrant he then loses that status and thus is no longer in the country with status. A non-immigrant is a form of status. If the foreigner is here as a non-immigrant, he comes in and says, "I am visiting my aunt." And the immigration officer then says, "You are registered for the three months that you are in the country." Therefore, he has non-immigrant status.

Senator Connolly: The simple term is "visitor."

Mr. Gotlieb: It is a simple term but it is not a term used by the act.

Senator Forsey: The minister can declare him not to be a visitor and then he becomes, presumably, a candidate for immigration.

Senator Connolly: A candidate for what?

Senator Forsey: A candidate for immigration.

Senator Laird: Emigration.

Mr. Gotlieb: He loses his status.

If I may volunteer a point, the act does not work in a complicated way. It is certainly in direction, in the way the clauses interrelate to each other. The effect is that the minister can declare him to cease to be a non-immigrant, namely, remove his status and order him deported.

Senator Croll: What do you need all this special authority for if you have all the powers now under the act?

Mr. Gotlieb: I am going to cover that, senator, because I have been invited by the chairman to start from square one. There are 32 spaces on the chessboard so I hope it does not get too boring.

The minister has that exceptional power but it has to be for an offence of the sort which I read out, under one of those prohibitions of section 18.

Senator Connolly: Is it fair to say that what the minister decides is that the person in question is a prohibited person within the meaning of those sections you have read?

Mr. Gotlieb: Yes.

Senator Connolly: So, as Senator Forsey says, he is a candidate for emigration.

Mr. Gotlieb: That is right, which he can issue himself by his own writ, so to speak, if it is his opinion that he is such a person.

The Chairman: Is there a right of appeal?

Mr. Gotlieb: No, there is no right of appeal unless it were applied for at the port of entry.

Mr. Black: No, I do not think so. If I could just interject here, the person ordered deported by the minister would have the same appeal rights as anybody else. In other words, he would have to come within the four categories that Mr. Gotlieb mentioned. He would have to be visaed, a landed immigrant, or claiming refugee status, or a Canadian citizen.

Senator Smith (Colchester): Before you go on, I really do not follow what was just said, and perhaps it was because I did not hear it. The question was, I think whether there was any appeal from the minister's decision, when he exercises his extraordinary power and says that a certain person is no longer a non-immigrant, and we then deal with him.

The chairman: Mr. Black, would you repeat what you said?

Mr. Black: There could be an appeal depending upon who the person is. Aside from this provision, normally under the Immigration Act the persons who have a right of appeal to the Immigration Appeal Board are; one, landed immigrants; two, immigrants or non-immigrants who have visas, as the case may be; . . .

Mr. Gotlieb: At a port of entry.

Mr. Black: Yes, at a port of entry—three, people claiming refugee status; and, four, people claiming Canadian citizenship.

If the person was already in the country as a non-immigrant, the only person, effectively, in practice, who could claim a right of appeal is someone who made a claim to refugee status. It only applies to a visitor; it does not apply to landed immigrants. So, it effectively would be if a person, at the time he was deported, made a claim to refugee status.

The Chairman: Or that he was a Canadian citizen.

Mr. Black: Yes, that he was a Canadian citizen.

Senator Smith (Colchester): Unless the person for whom the order was made could fall into one of those two classes, out he would go without any right of appeal?

Mr. Black: That is correct, yes. The first would apply obviously to a very small percentage of people in the country, an infinitesimally small number in terms of having appeal rights. The existing appeal rights are there for them if they qualify in any of those four categories.

Senator Grosart: The extraordinary powers of the minister, under sections 6 and 7, would apply to only category two of the four in section 5, or would it apply to category one?

Mr. Gotlieb: It would apply to all the section 18 offences, which theoretically incorporates section 5. Therefore, it applies right throughout.

Senator Grosart: If someone claims to be a Canadian citizen and the minister now declares him a non-immigrant, what is the point of this? It does not make any sense in English.

Mr. Gotlieb: The man is a visitor; he has status as a visitor. If the minister learns that there is reason to believe that the person is a criminal or that he is a prohibited person under section 1 or some other part of the act, then he can declare him to cease to be a non-immigrant and order him deported. The person then says, "You can't do that to me; I'm a Canadian citizen!" If he makes that claim, then that is heard by the appeal board. It is very rarely that that claim is made. It is not normally the kind of thing that one makes an error on. I believe in the last few years there has only been a handful of cases.

Mr. Black: I have been the legal advisor for two years and I have only seen one or two claims to Canadian citizenship, both at port of entry and inland. I suppose it could sometimes happen that a person, when he was admitted to Canada, did not realize that he might have a claim to Canadian citizenship. He thought he was an alien and admitted as a visitor and then someone said, "You were born abroad of Canadian parents and you may have Canadian citizenship." By that time it could have happened, I suppose, that the minister could have made a deportation order against him under that section, and then he might subsequently have realized that he might have a claim to Canadian citizenship, and I suppose he could make a claim at that point in time. But as Mr. Gotlieb pointed out, I have only seen it happen once or twice.

Senator Grosart: You may have seen it only once or twice, but there are hundreds of thousands of people who could be involved. I am one of them. Only two years ago I was informed that after having lived in this country for 50 years I was not a Canadian citizen, despite the fact that I had a passport stating I was. Somebody came along and said that they would not renew my passport until I took out Canadian citizenship. That happened only two years ago. And this has happened to many people.

Mr. Gotlieb: Sir, this is in the act and it would apply to any person ordered deported. He has the right to go before the Immigration Appeal Board to make a claim that he is a Canadian citizen, if in fact he can make that claim. That right is being preserved. It is not being taken away.

Senator Grosart: Yes, but if he wants to appeal beyond the Immigration Appeal Board, the minister can interfere and prevent him from making an appeal.

Mr. Gotlieb: The minister cannot prevent him from appealing to the Immigration Appeal Board.

Senator Grosart: But if he wants to go beyond the Immigration Appeal Board, if he wants to appeal to the courts of the land.

Mr. Gotlieb: No, the minister cannot prevent him from doing that.

Mr. Black: Senator, if the person claimed to be a Canadian citizen and the Board found that he was not a Canadian citizen, he would appeal, if there were legal grounds for him to assert a claim of Canadian citizenship. He could appeal further to the Federal Court of Appeal.

Senator Connolly: Is that in the act? I suppose it is in the Federal Court Act.

Mr. Black: No. There is a general right of appeal on law or jurisdiction with leave to the Federal Court of Appeal from a decision of the Immigration Appeal Board.

Senator Connolly: That is all you need, then. What about the prerogative writs? Do they run in immigration cases?

Mr. Black: Yes, that is right. Up until now we have been talking about an appeal to the Immigration Appeal Board.

Senator Connolly: That is right.

Mr. Black: I think what you have referred to as prerogative writs would now be called an application under section 28 of the Federal Court Act, which is an application to review and set aside. It is not, stricly speaking, an appeal. When the Federal Court Act was enacted with respect to

what are called federal boards, tribunals or commissions . . .

Senator Connolly: It is almost a question of mandamus.

Mr. Black: It is close to the old certiorari.

Senator Langlois: Or a brief of evocation.

Mr. Black: Yes, I believe in the province of Quebec it is called a brief of evocation. Under section 28 of the Federal Court Act, with respect to a decision of the special inquiry officer, an application can be made to review and to set aside on legal grounds or grounds of lack of jurisdiction. There are those two avenues, but the section 28 route is not an appeal strictly speaking.

Senator Grosart: Just for clarification purposes, my understanding is that Mr. Gotlieb told us that the minister had certain extraordinary powers in these four cases under section 7. Is that correct?

Mr. Black: Section 7(4) and (5), that is correct.

Senator Grosart: He has these extraordinary powers to stop the whole legal process, is that correct?

Mr. Gotlieb: No.

Mr. Black: If the person is in Canada as a non-immigrant, or for our purposes let us call him a visitor, and if the minister can form the opinion that this gentleman falls within one of the prohibited classes in the act, he can say to him, "I declare you to no longer be a non-immigrant and I hereby order you deported." If this gentleman happens to be or thinks he is a Canadian citizen or claims to be a refugee as defined in the international convention relating to refugees, he may appeal to the Immigration Appeal Board.

In the case of a Canadian citizen, if the Immigration Appeal Board, after hearing the evidence and studying the law, finds that this gentleman is a Canadian citizen, the appeal will be allowed and the deportation order will therefore be no longer valid, since Canadian citizens are not subject to deportation under the Immigration Act. The Immigration Act does not apply to Canadian citizens. A Canadian citizen cannot be deported from Canada.

Senator Grosart: At what point can the minister stop the whole legal process? And in what cases? Because we have been told in the evidence, as I understand it, that it applied only to the category of visitors in possession of non-immigrant visas, and then we were told it applied to all four categories, and now we are being told that it does not apply to categories three and four.

Mr. Black: Normally under the act, aside from this power, there are four categories. For example, one category is landed immigrants.

Senator Grosart: We know the four categories.

Mr. Black: Under section 7(4), senator, the minister cannot deport landed immigrants. He can only deport a non-immigrant. He cannot deport a landed immigrant, a person who has been accepted for permanent residence.

Mr. Gotlieb: The minister cannot stop that process at all. He cannot stop the appeal process. In the four cases we have talked about, if he is a landed immigrant this section does not apply. Section 7 does not apply so it is irrelevant. If he is a non-immigrant, and he is at a port of entry, I suppose it does apply; he would have the appeal right; and he would have it as a refugee and he would have it as a Canadian citizen. The minister cannot stop the appeal right from being exercised. This short-circuiting approach is short circuiting the special inquiry officer, but not the appeal rights. The appeal rights co-exist with section 7 and they co-exist with the next section I was going to refer to, section 8. They are reserved in their full plenitude for any person who comes within the categories defined by the Act of Parliament of 1973 that deals with appeal rights.

Senator Grosart: I am afraid I still don't understand. Is there any point at which the minister can stop the whole appeal right of anybody? Is there any point at which the minister can intervene and say to a person, "You have no further appeal to the courts."?

Mr. Black: If a person has a right of appeal he is entitled to bring his appeal.

Mr. Gotlieb: The minister cannot stop or affect an appeal right except in one situation and that is the case of a section 21 certificate.

Senator Grosart: That is number two in that list of four, is it?

Mr. Gotlieb: No, it is another one altogether, sir. I am answering your question by saying that the minister cannot interfere with the appeal rights in any of those four categories, but in order that my statement should not be misinterpreted I am telling you that there is one exception which has not been dealt with, and that exception is the section 21 certificate. That section deals with another problem, and that is where the person has exercised his appeal as a refugee, a landed immigrant or as a visaed person—it does not apply to Canadian citizens, if he succeeds there—but where he is in the appeal stream and makes it to the appeal court, and the Minister of Manpower and Immigration and the Solicitor General believe, on the basis of intelligence reports, that the person is a threat to the national security of Canada, then, by filing a certificate, they can prevent the court, the Immigration Appeal Board, from exercising its humanitarian jurisdiction. That they have done some 30 or 40 times over the last four or five years.

Senator Grosart: You say the appeal court now.

Mr. Gotlieb: The appeal board is a court of record. It is the appeal board.

Senator Grosart: What rights, then, would that person have?

Mr. Gotlieb: The appeal board has two powers. It has the power to deal with the law, the legal arguments: Was the deportation order valid or invalid? Was the inquiry officer wrong in law, wrong in fact? The appeal board can deal with the question as a court of record and as a legal court. They also have the parallel power to stop a lawfully issued deportation order if they believe, in the case of those four categories, that there are special humanitarian considerations which apply. That is their humanitarian jurisdiction, and under the Immigration Appeal Board Act the two ministers that I have mentioned can say to the Immigration Appeal Board, "Do not exercise your humanitarian jurisdiction. We have information which we cannot disclose, and which there is no obligation to disclose. It is information that is confidential in its character, it is security information, it comes from security or intelligence

reports, and its nature is such that this person should not be allowed to stay in Canada. You are therefore not allowed to exercise your humanitarian jurisdiction."

Senator Grosart: Let me ask you this: Does that mean that the Immigration Appeal Board would hear the case, would adjudicate on it on the facts and the law, and then be told, "Whether this person qualifies under the law and under the facts or not, you cannot exercise the humanitarian exception?

Mr. Gotlieb: Yes, if in fact he qualifies.

Senator Grosart: But if he qualifies, there is no question of humanitarian consideration. Let us say that the board says he qualifies in law and in fact; there is no question of your exercising humanitarian, concessional judgment. Can the minister then say, regardless of the law and the facts, that you cannot reverse the decision?

Mr. Gotlieb: If the court finds that the deportation order was invalid, that it was illegal, that it was beyond the power of the inquiry officer, and they say, "We therefore declare it to be invalid, "section 21 is not relevant; it has no relationship. It has a relationship only when the court says, "The inquiry officer's order was valid, but we feel that this is a meritorious case for being permitted to stay in Canada." They cannot interfere, however, with the process of law. A section 21 certificate does not deal with the legal determination.

Senator Laird: I am talking now about an appeal to the Federal Court of Appeal. I presume there is nothing in the act that would prevent an appeal on the ground of denial of natural justice.

Mr. Gotlieb: There is nothing in the Immigration Act that does or could prevent access to the Federal Court under the Federal Court Act. It is entirely up to that act and the judges who apply it to determine whether or not they will allow access to their court.

Senator Laird: So that ground of appeal would always be available.

Senator Croll: But only with leave, is it not?

Senator Laird: Yes, only with leave.

Mr. Gotlieb: It is always available at any time under any act.

Senator Laird: Senator Croll is right; such a person has to have leave.

Senator Smith (Colchester): May I see if I have this business of appeal right—which I may not have? We were discussing, during the last minute or two, the so-called "section 21 certificate", which in fact removes the jurisdiction of the appeal court in certain limited cases, which we understand; but returning to an order of the minister under section 7, with respect to a person who does not fall within the classification of persons who have an appeal, then there is no appeal.

Mr. Gotlieb: He cannot use it.

Senator Smith (Colchester): No. There is nothing for him to use, and he simply has to do as the minister says.

Mr. Gotlieb: No. If he does not fall within the prohibited group, the minister cannot issue the order. The minister can deport him, in that case.

Senator Smith (Colchester): I am sorry; I have managed to confuse you as well as myself, I guess. If a person falls within these prohibited classifications, and if he is a non-immigrant, the minister may say, "You are not even going to be a non-immigrant any longer, and I am going to get rid of you, and so here is a deportation order." If that person is not one of those set out in the section which grants appeals, he has no appeal and he has to obey the minister's order and leave the country.

Mr. Gotlieb: That is correct.

Senator Smith (Colchester): On the question of frequency, I think one of you said that only once or twice, or two or three times, in the last couple of years had some kind of power been exercised.

Mr. Black: I believe we were talking of Canadian citizenship claims.

Senator Smith (Colchester): Yes, that is what we were speaking of. The other class of person who might make a claim in respect of this order that the minister makes would be a refugee.

Mr. Black: Yes.

Senator Smith (Colchester): Have there been many cases whee a refugee, or a person claiming to be a refugee has made this claim?

Mr. Gotlieb: Refugees have made claims to refugee status often under other clauses of the act, but not under this one. This is used only very rarely.

To round this off, there is a similar provision in section 8, which says that the minister may grant a permit, and that the minister may at any time cancel a permit. It also says that when the minister cancels a permit, or when it expires, he may make a deportation order respecting the person concerned. Again, there is no reference to reasonable grounds, and the appeals are simply the standard appeal that we talked about in the four categories. These powers have been used only very rarely.

Senator Smith (Colchester): May I now ask if the minister has used his powers under section 7 very frequently?

Mr. Gotlieb: No. He has used his powers under section 8, though, recently.

Senator Smith (Colchester): We have not come to that one yet.

Mr. Gotlieb: No. He has not used his powers under section 7 in recent times.

Senator Smith (Colchester): I see. Thank you.

Senator Macnaughton: Mr. Chairman, we have had quite an exposé of the Immigration Act by the deputy minister, and I am sure we are all very interested in and very grateful for his comments; but I would like to point out that we are here today to consider a bill that was referred to us by the Senate, namely, Bill C-85, which is an exceptional act for special situations and circumstances. We have had a partial explanation of that, but we have witnesses here who wish to do something with the bill—let us say oppose it, or criticize it—and I think we should proceed to hear those witnesses. If, in the course of their testimony, things pop out, we have our experts here, and I think we will get a better understanding of the Immigration Act and this exceptional act in that way, rather than

by doing it the other way, that is, by conducting a class in explanation of the Immigration Act. Our duty is to deal with Bill C-85. Let us stick to it.

The Chairman: I would personally have found it difficult to assess the bill before us without some of the information we have received, but I think we have had a good bit of it now. Yours is the last name on my list, senator. Are there any other questions of this witness before we go on?

Senator Forsey: Mr. Chairman, the same point occurred to me that occurred to Senator Macnaughton, and I was going to ask what I feel is a very naïve question; but then, I am not a lawyer, let alone a specialist in immigration law. My question is, what appeals, if any, would be open to people who would come under the provisions of this bill before us? You see, section 3 says:

> 3. The provisions of the Immigration Act and the Immigration Appeal Board Act apply *mutatis muandis* to this Act.

With regard to the words "*mutatis mutandis*" I know what the Latin means, but the precise implications of those words for these purposes is not clear to me. I would like to know, if I could, in simple terms, what rights of appeal, if any, the people concerned would have under this bill.

Mr. Gotlieb: Could I reply to that question, Mr. Chairman, and would you allow me another two minutes to explain what this bill does that is not in the act?

The Chairman: Yes. I think that is essential. We should at least have that information from the witness.

Mr. Gotlieb: I think that is what you want to elicit.

Senator Forsey, the bill that is before you would not affect those same appeal rights that we have described. If a person enjoyed those rights because he was in those four categories, then they would be preserved.

Senator Forsey: Even if he were picked up under this bill?

Mr. Gotlieb: Yes.

Senator Forsey: In other words, if he said, "Wait! I am a Canadian citizen," or "I am a refugee"?

Mr. Gotlieb: Yes.

Senator Forsey: Thank you. That makes it quite clear.

Mr. Gotlieb: If I might be allowed two minutes to outline the scheme of the act, I would thank you for allowing me to explain it. This bill goes beyond the act in two respects. The provisions in the act apply to somebody who has been admitted to the country, who is in the country and who has been given status and is actually here. They do not apply, and the minister does not have those powers, vis-à-vis those people who are not actually in the country but who want to come in. Therefore the act would extend to the minister temporary authority to deport people seeking to come in, but they would have the same appeal rights. They could claim to be a refugee or they could show their visa.

The Chairman: You mean they could be physically at the airport?

Mr. Gotlieb: Yes, physically at the airport. They could get off the plane saying, "I want in," and the minister would have authority to say, "No, stop where you are; you cannot come in." Then he can give his reason. He can say, "I believe you are likely to engage in acts of violence in this country."

The second point is that the substance of this act and the wording is different from section 5.(1)(*m*)(*n*) in the Immigration Act that I read out. Section 5.(*1*)(*m*) and (*n*) deal only with subversion against democratic regimes. The substance of section 2 is worded differently. It refers to people who are likely to engage in acts of violence even against a communist regime. It is a question of acts of subversion or violence against anybody in this country. So if they are coming in to assassinate somebody or to seize an embassy or the compound at the Olympics of a country which is not a democratic country, and therefore not caught by section 5(1), the minister can say, "Stop, I have information; you will not be allowed into the country to perform those acts of violence against anybody in this country." And that is the second major difference in this temporary bill.

The Chairman: If I might summarize for a moment what you have just said, it is to this effect, that this particular offence is not in the existing list of prostitutes and other things that you have mentioned.

Mr. Gotlieb: Not in those words.

The Chairman: So that the present section dealing with people in the country could not be applied to such people; and the second point is that the present provision does not apply to somebody waiting at the gate.

Mr. Gotlieb: That is right.

Senator Carter: I have just two short questions, Mr. Chairman. First of all, I am not quite sure that I understand the explanation given for the choice of date—that is to say, December 31. I gather that the point behind the choice of that date is that it is intended to take care of any people who might have come in. But how can you assume that we will catch them before December 31, and what can you do afterwards?

Mr. Gotlieb: You are quite right. We have no assurance whatever that we can catch them by then. But the date has relationship with the announcement that my minister made on behalf of the government that they would be bringing forward a new immigration act in the form of a bill which would be fully debated in the House of Commons and in the Senate and that they would be doing that in 1976. So there is some relationship in time, although it is not precise.

Senator Carter: That means you intend to have similar provisions in the new act?

Mr. Gotlieb: I do not think I could say that, because I cannot speak for its contents. We will have to await the bill. It will be a general overhaul of the provisions of the act, which, I should like to mention, is badly needed, as you can gather from the list that I have read out. It will be a general overhaul and no doubt the security part will be part of that overhaul.

Senator Carter: My next question is related to the evidence and to the prohibited list that the witness read out. Are these lists to be reviewed?

Mr. Gotlieb: The lists of offences would certainly be reviewed under the Immigration Act.

Senator Carter: The reason I ask is because you mentioned epileptics, and that seems to me to be a little inhuman now, particularly since it can be controlled.

Mr. Gotlieb: Yes.

Senator Smith (Colchester): Mr. Chairman, while I hope that I may be permitted in due course to ask a number of questions of these witnesses, if there are other witnesses to be heard, I would gladly defer until they have been heard, as long as I am given the opportunity afterwards to put questions to these witnesses.

The Chairman: Well, I am in the hands of the committee, and I think it might be as well if we were to present the thing in some detail now. Then, subject to Senator Grosart's question which is last on my list, we could listen to the other presentations, and then we could have these witnesses back to answer any further questions that senators may have at that time.

Senator Grosart: Mr. Chairman, I would suggest that we complete our examination of these witnesses. The minister is not here, and normally we want to find out not only what the act is about but what the policy is, and we can only find that out from the officials of the department. For example, the phrase was used, "in the country and not in the country." What does that mean? Does it mean, not lawfully or lawfully in the country? Does it mean, somebody waiting at the door is actually in the country? So what does this mean? This is the essence of the bill.

Mr. Gotlieb: I think it is an important point, but "not in the country" is certainly not a term of ours. I am speaking fairly freely there. Perhaps I could invite my colleague, Mr. Sheehan, to describe the technical difficulties.

Senator Grosart: Perhaps I could add a supplementary remark which might explain my question, Mr. Chairman, because the purpose of the bill is to allow somebody who is not in the country, in the term used by the witness, to be deported. Can somebody be deported from the country if he is not in the country?

Mr. Gotlieb: Well, senators, he is in Canada, whether one likes it not, but he has not been lawfully admitted to Canada if he is waiting to go through. But he has landed, and he is at the airport and no matter what we might call it legally, the person is still physically here. So in trying to deport him, we want to get him out of Canada. But he has not yet been lawfully admitted to Canada and he is seeking admission.

Senator Grosart: Well then, perhaps we could make that distinction in our questions and in the answers. You see, the whole purpose of the bill, or, you say, one of the main purposes, is to make it possible to deport somebody who is not in the country.

Mr. Gotlieb: Well, senator, this problem arises from the interpretation and the whole structure of the 1952 act. They do not use those terms. We are in fact talking about rejecting somebody and not allowing him into the country. The existing act does not speak in those terms. But we are talking here of extending the powers of the minister to prevent that person from entering Canada. But he is here, and he is physically in Canada, but he has not been lawfully admitted.

Senator Grosart: But can you deport somebody who is in Canada but who is not lawfully in Canada?

Mr. Black: I might add, senator, that this is what we do with all deportations at the airport. When people get off the plane, they are physically in Canada, but they are not admitted legally to Canada, and the reason they are deported is that they are simply not admissible to Canada. The act says there is a deportation order, but in fact these people have never been admitted to Canada. But I suppose they could be admitted and later deported if we were to discover something about them.

Senator Grosart: But you have that authority now.

Mr. Black: There are many deportation orders made against people who seek admission, but the immigration officer feels they are in some prohibited class, and he reports to an inquiry officer, and an inquiry is held and eventually they are ordered to be deported.

Senator Grosart: Is "depot" defined in the act?

Mr. Gotlieb: Yes, The scope and application of a deportation order is included and specifically relates to people seeking to come in.

Senator Grosart: But even under the present act is there a definion of deportation?

Mr. Black: Yes, it is defined as:

> the removal under this Act of a person from any place in Canada to the place whence he came to Canada or to the country of his nationality or citizenship or to the country of his birth or to such country as may be approved by the Minister under this Act, as the case may be;

It is contained in section 2, the interpretation section.

Senator Grosart: So we are talking about removal, not deportation in the normal semantic sense.

Senator Smith (Colchester): How does that differ from the use of the words "deportation order" in this bill?

Mr. Black: It does not; we are using deportation for removal, because that is the legal structure of the Immigration Act.

Senator Smith (Colchester): So that under the present act and under this bill, in both cases the person would be actually physically within the boundaries of Canada.

Mr. Black: Yes.

Senator Smith (Colchester): Whether he is lawfully there or not.

Mr. Black: Yes.

Senator Smith (Colchester): And before he can be deported, of course, he would have to be in custody so that he could be made to go.

Mr. Black: If he just gets off an airplane and walks through into the lounge, of course, he is physically in Canada and his removal involves under the legal system deportation from Canada, which is his physical removal from Canada.

Senator Macnaughton: Or he came across the border at night time . . .

Mr. Black: That is correct.

Senator Macnaughton: —to see Montreal.

Senator Forsey: But the question remains whether in fact the people who are covered by clause 2 of the bill could be deported already. We make the distinction of visitors and so forth, who could be deported, but the non-visitor cannot be deported because he has not yet got in. Now, in fact, he has got in and in this technical sense I find that a little hard to follow.

Mr. Black: You are quite right, senator. The person coming in at the border could be deported normally if the immigration officer felt that he was in a prohibited class. However, the difficulty we encounter in these cases is that the information which is made available to the department usually emanates from foreign police forces or the R.C.M.P. and is of such a nature that it cannot be used at the normal special inquiry proceeding. It cannot be made public or, eventually, the sources of the information will dry up and the police forces will not make this available to Canadian immigration officials if they know it will be publicized. Without using that information at an inquiry we have found from experience in those few cases which have arisen that it is impossible to adduce sufficient evidence to make a deportation order. Hence, in these types of cases, and I might suggest that this is one of the principal reasons for this bill, we cannot use the evidentiary procedure of the inquiry and must necessarily go to the procedure set out in this bill.

Senator Forsey: In other words, you are really by-passing the special inquiry officer and the whole procedure connected with him, are you?

Mr. Black: Where necessary.

Mr. Gotlieb: For those who are within the country there is an alternative system, namely that to which we testified earlier.

Senator Forsey: For those who are lawfully here.

Mr. Gotlieb: Lawfully, yes. We could walk people in, so to speak and then use the extraordinary procedure of the minister, who does not need an inquiry. That is contained in the legislation largely because of the problem of sources, as in section 21 to which I referred earlier, which refers specifically to security and intelligence reports. This in fact, therefore, applies the same method to those who are not in the country but are seeking to come in and have, so to speak, no claim yet on Canada. This would apply to those who are lawfully in the country, physically in. The two sections apply to those who are lawfully in. Sections 7 and 8 cover those who come in on permits or as non-immigrats with status. So, in fact, the request for the power is to deal with those who have not yet attained that status which may be taken away by the minister without a hearing subject to the bill.

Senator Grosart: That is what I do not understand. Clause 2 authorizes the minister to make a deportation order against semeone who has not been lawfully admitted to Canada. Why does he need the power? He can do it anyway.

Mr. Gotlieb: He cannot do it, senator; he can if he is within the country.

Senator Grosart: But he is not lawfully here.

Mr. Gotlieb: If the person is not lawfully here, the minister has no powers under the present act. The special inquiry officer has the powers and the special inquiry officer, unlike the miniter, cannot act on the basis of intelligence and security reports.

Senator Forsey: The special inquiry officer has the power to refuse entry.

Mr. Gotlieb: The special inquiry officer can do two things: he can refuse him entry at the border; and he can deport him, once lawfully admitted, provided he comes within section 5 or section 18 of the act. The minister has extraordinary powers when the person has been lawfully admitted and they relate basically to the problem of the sources of information. He does not have the power vis-à-vis people he has good reason to believe are likely to engage in violence, but cannot make public the source of his information.

The Chairman: And no power to deal with them until they step off the aircraft into Canada.

Mr. Gotlieb: No power; the only power, again, that he has is if they are coming in to subvert democratic countries. He has no power if they are coming in to subvert or destroy the embassy or the chief of state of a friendly power, or of any power.

The Chairman: Non-democratic.

Mr. Gotlieb: Non-democratic.

Senator Connolly: Mr. Chairman, I apologize for asking this question, but I was out for a few minutes. We have heard a great deal this afternoon in relation to the powers contained in the legislation as it exists on the statute books. What is the purpose of this further power which is being sought?

The Chairman: Senator Connolly, you were unfortunately out when that very question was asked and answered rather fully.

Senator Connolly: There is no brief answer, I take it; it is a complicated answer.

Mr. Gotlieb: This bill does several things which are not contained in the existing powers. The first thing it does is to provide the minister with the power to issue deportation orders himself to people seeking to come into the country, something which he can only do now for those who are within the country. So it would extend the powers that he has vis-à-vis visitors to those who are seeking to become visitors. That is the first major important thing that it does. The second major important thing that it does is to redefine and thus, I think, widen the nature of the activity which is offensive under the Immigration Act. In other words, which can activate his power to deport and only his power, no one else's. The existing offensive activities which Canadians do not want done and do not wish to import are listed in section 5 and section 18 and deal with subversion of democratic institutions. The offensive activity described in section 2 is violence and terrorism. It does not speak of terrorism as such, but it speaks of violence and acts of violence. That is broader than subversion of democratic institutions, because it would include subversion of the institutions of other countries or physical damage to the institutions or leaders of other countries which are not democratic countries.

Senator Smith (Colchester): Are you in fact saying that, under the present act, because a person is, for instance, Spanish and is in this country the immigration authorities

cannot deal with him if they believe he intends to shoot another Spaniard?

Mr. Gotlieb: Under the existing act, if there is reason to believe that several people are entering the country or are in order to subvert or physically destroy, let us say the premises of a non-democratic country, whether it be Spain, the Soviet Union, or any other non-democratic country, it is uncertain that would be an offence under the Immigration Act and that those people would be prohibited.

Section 5 (*l*) and (*m*) speak of the subversion of democratic institutions and democratic countries. Section (*n*) speaks of a threat to the security of Canada itself. If two people were coming into this country to destroy the Embassy of Spain, the Soviet Union, or any other country, or if they were coming to assassinate a foreign leader, then that is not a threat to the security of Canada. It is an act of violence, an act of terrorism.

Senator Forsey: With great respect, Mr. Chairman, Senator Connolly says "democratic institutions." A lot of things are called by various people "democratic institutions." It says "democratic institutions" as they are understood in Canada. I speak subject to correction. In other words, if someone comes along and says, "I believe in people's democracy" . . .

Mr. Gotlieb: That is absolutely right, senator. That would not qualify.

Senator Carter: With regard to the power that we are giving to the minister, can that power be exercised only by the minister, or can he delegate it to some of his officials?

Mr. Gotlieb: The act provides that it must be exercised by the minister. That is how section 21 is phrased. I believe it is the case, under the laws of Canada, that the minister can delegate any power he has to his deputy.

Mr. Black: I believe there is something in the Interpretation Act which says that a deputy may exercise the powers of a minister.

Senator Carter: So this power may be exercised by an official?

Mr. Gotlieb: The minister said that he would exercise this power personally. I made the point in my remarks that the powers which have existed in the name of the minister, that relate to deportation, or that relate to section 21, have to my knowledge been exercised only by the minister, and they have never been exercised to my knowledge—and I have known of all cases for several years—by his deputy. I am speaking about section 21—which is a far-reaching power—and the power to deport, as was the case in section 8. The power was exercised by the minister in person, and very often in consultation with his colleagues.

Senator Forsey: It is an important point that Senator Carter makes, because in the Joint Committee on Regulations and Other Statutory Instruments we have had occasion to complain of the number of instances that the powers granted to the Governor in Council or the minister are delegated and sometimes sub-delegated. We are proposing later on to make some rather pithy, not to say acid, comments on some of this business of delegation and sub-delegation. I know that Mr. Driedger's work, which was quoted to us by the officials, in fact gives carte blanche to this delegation, but quite a number of the members of our committee are very uneasy about it and are not prepared to take the pronouncements of Mr. Driedger, great as is our respect for him, as if handed down from Olympus or from the Pope speaking ex cathedra.

Senator Langlois: Mr. Chairman, under this legislation or any other legislation there can never be sub-delegation—*delegatus non potest delegae.*

The Chairman: I agree.

Senator Forsey: Yes, I know, but we found, senator, in our committee that *delegatus non potest delegae*, whatever you quoted, is not always followed. There is a tendency to go well beyond this. Various colleagues of yours have quoted it, and we have quoted it, but to some officials it is like water off a duck's back.

The Chairman: We have two delegations wishing to make their presentations to us, and we have one written brief.

Senator Croll: Mr. Chairman, I would like to speak to the written brief.

The Chairman: Senator Grosart, have you a further question of this particular witness?

Senator Grosart: Yes, Mr. Chairman; I have been seeking to catch your eye for some time. Could I ask the deputy minister what would be the procedure at the moment if the minister received information that a person had not lawfully been admitted to Canada but was physically in Canada? What would happen?

Mr. Gotlieb: Under the existing law?

Senator Grosart: Yes.

Mr. Gotlieb: If the person were an illegal immigrant, illegally in the country . . .

Senator Grosart: Let us use the phrase that is in the bill; "has not been lawfully admitted to Canada".

Mr. Gotlieb: If he were not lawfully admitted to Canada and he were in Canada now, if the matter were brought to the attention of the minister or his department, under the processes of the Immigration Act, it would involve a report to the director and reference to an inquiry, and the man or woman would be deported on the grounds that he or she was not a bona fide immigrant or non-immigrant to Canada. There is provision under the Immigration Act and the regulations as they now stand that the person would not be allowed to stay. There would be no problem dealing with that kind of case.

Senator Grosart: My question is, what is the procedure? Would the person be arrested?

Mr. Gotlieb: He might be arrested by a police officer or immigration officer if there was reason to believe that he would not appear at the inquiry.

Senator Grosart: Or if he was likely to engage in an act of violence, he would be arrested, would he not? If that person had not been lawfully admitted and was about to engage in an act of violence, would he be arrested?

Mr. Gotlieb: Not by an immigration officer. The immigration officer has grounds for detaining him, but it would be limited to the statute, which refers to the question of whether he would appear at an inquiry. But a police

officer, if he had reason to believe that he was about to do something, would probably have the power and the reasonable grounds . . .

Senator Langlois: Or any citizen, for that matter.

Mr. Gotlieb: Yes.

Senator Grosart: What happens then? Do you send him a notice and say, "We suspect you are going to commit an act of violence. We also believe that you have not been lawfully admitted to Canada"? What do you do? I want to find out why the minister wants this particular power in this particular case.

Mr. Gotlieb: Mr. Sheehan will answer that question.

Mr. T. B. Sheehan, Director General, Facilitation, Enforcement and Control Branch, Department of Manpower and Immigration: Mr. Chairman, we are speaking here of a person who is in Canada but without legal status in Canada.

Senator Grosart: Not lawfully admitted—that is the working in the bill. I am trying to find out why the minister requires these special powers.

Mr. Sheehan: You are speaking of a person who is physically in Canada but who is not here with any legal status in Canada.

Senator Grosart: Who has not been lawfully admitted to Canada.

Mr. Sheehan: There is no need to refer to the proposed law. The person is subject to deportation by virtue of the fact that he is in Canada illegally. A special inquiry officer is instructed to carry out a special inquiry hearing into the person's status, and if he is here without status he can be ordered deported, removed, from Canada because of his illegal presence here.

Senator Grosart: I am taking the case where the Minister of Manpower and Immigration is given information by the police that this man has not been lawfully admitted to Canada. We suspect that he is about to commit an act of violence, which is the exact category for which the minister is asking for special powers. I want to know what happens. Does the minister need any powers other than he has now, to call the RCMP and say, "Arrest the man and let him go before the courts! Arrest him, lock him up, and we will find out whether he should be deported." Why does the minister need this special power to deport this man who is in Canada but not lawfully admitted? I do not understand why he needs this special power.

Mr. Sheehan: Because to exercise the special power which the minister now has under the present immigration law, it has to be exercised with respect to a person who has legal status in Canada under section 7 of the Immigration Act.

The minister's powers, as Mr. Gotlieb has indicated, do not extend to a person at a port of entry seeking admission, or to a person who is in Canada without legal standing. Those are the extensions which are sought through this bill.

Senator Grosart: But he does have the power. The department has the power under the act to deport a person if it has reason to believe that he has not been legally admitted.

Mr. Gotlieb: The department, at a port of entry, has the power to issue a deportation order . . .

Senator Grosart: But we are dealing now with a man who is physically in Canada, someone who has been lawfully admitted.

The Chairman: Senator Grosart's point is that if a man, by stealth, gets into Canada and is found a month later to be in Canada not having been lawfully admitted, how do we get rid of that individual?

Mr. Gotlieb: The minister does not have the power to deal with that individual. The department has the power, but the department's power has to be administered as it would be at an airport, namely, on the basis of a special inquiry. In that particular situation, if the individual in question did not have any particular papers and had no right to be here, he could be deported.

Senator Grosart: You could deport him anyway. If, in addition to being not lawfully admitted, there is a suspicion that he is about to commit an act of violence, or will commit an act of violence, then the police move in. What I am concerned about is that the minister is trying to take police powers.

Mr. Gotlieb: But the act does not apply to people who are lawfully admitted to Canada for permanent residency. The case we are dealing with is the individual who may be in Canada lawfully as a visitor. In that particular case, the minister, under this legislation, would have the power to deport that individual in certain situations. If the individual in question has a permit, the minister can cancel that permit. The minister can declare him as ceasing to be a non-immigrant, but he cannot deport him for the grounds specified in the act. If the minister has reason to believe that the individual is about to conspire, or is likely to engage in an act of criminal activity, he cannot deport him. The individual can be prosecuted, or he may be prosecuted, but he cannot be deported. Whether or not he could be prosecuted, depends on the extent to which the information is utilized.

Senator Smith (Colchester): But he is then lawfully in Canada.

Mr. Gotlieb: This legislation does not apply to persons lawfully admitted to Canada for permanent residence.

Senator Smith (Colchester): I understand that.

Mr. Gotlieb: The exception is the landed immigrant; it does apply to people who are here lawfully as visitors, as well as people who are seeking entry. In addition, it would apply to people who are illegally in Canada, if the powers are required.

Senator Grosart: It would apply to a visitor. He would come under the category of someone who had not been lawfully admitted for permanent residence. It would apply to someone on a work permit.

Mr. Gotlieb: Yes, it could apply to any visitor who is here other than for permanent residence, such as those on work permits, students, and so forth.

Senator Grosart: And that same person could be arrested immediately for being unlawfully in Canada.

Mr. Black: Yes, that is correct.

Senator Grosart: If the individual is unlawfully in Canada, he can be arrested immediately.

Senator Langlois: But not if he is here as a visitor.

Mr. Gotlieb: If an individual is unlawfully in Canada, he can then be arrested.

Mr. Black: If an individual is lawfully in Canada, having been properly admitted, and the minister subsequently learns that this person who has lawfully been admitted as a visitor is in one of the prohibited classes referred to in section 18 of the present act which, as Mr. Gotlieb said, incorporates section 5, the minister simply sends the individual in question a notice declaring him as ceasing to be a non-immigrant and ordering him to be deported. Having made a deportation order against this person, there is another section of the act that enables the minister to have this person arrested for purposes of deportation. In other words, you do not really need to arrest him beforehand. The minister would simply send the individual a notice which contained both notification that he was deeming him to be no longer a visitor and ordering him deported, and on being served with that notice, he would be arrested for purposes of deportation. The minister does have the power to have a person arrested for purposes of deportation.

Senator Grosart: Am I correct in assuming that this particular phrase is intended to exclude rather than to describe a certain group of people who would be subject to the proposed act?

Mr. Gotlieb: It is intended to exclude landed immigrants.

Senator Grosart: It is an exclusion, not an inclusion.

Mr. Gotlieb: That is right.

Senator Grosart: That clears it up.

The Chairman: If there are no other questions, I will thank Mr. Gotlieb and his associates for their assistance and ask them to remain in the event that there are other questions as a result of the remaining submissions to be made to the committee.

I should mention at this point that we received requests from Mrs. Charlotte McEwen, member of the National Committee of the Voice of Women, and Dr. Whiteside, president of the Canadian Federation of Civil Liberties, to present briefs. In addition, Senator Croll has a submission by letter from the Parkdale Community Legal Services. The submission is in the form of a letter because the expense of appearing before the committee in person was prohibitive.

Senator Croll: If I may speak to that, Mr. Chairman, these people are too poor to come all the way down here and appear before the committee in person. Representatives reached me last night and asked me to present the submission to the committee.

Copies of the letter have now been distributed. The submission deals with section 5(1)(*m*) and (*n*), and we have had some evidence on those provisions today. It also deals with the time of expiry, and, again, we have had some evidence in that regard. It goes on to deal with the question of whether these extraordinary Towers will be incorporated into the new act, and that, too, was dealt with earlier today. It also deals with the matter of reasonable grounds, and that, too, was dealt with.

Mr. Chairman, I move that this letter be printed as an appendix to our proceedings.

The Chairman: Is it agreed, honourable senators?

Hon. Senators: Agreed.

Note: (See Appendix "A" to these Proceedings.)

Senator Macnaughton: Mr. Chairman, I am wondering if the deputy minister has read this letter; and, if so, whether he would care to comment.

The Chairman: This submission has only now been formally placed before us. I have not read it myself.

Senator Croll: Mr. Chairman, the letter is now in the hands of the members of the committee. In addition, I see Mr. Gotlieb also has a copy. Perhaps he can read it between now and the time we call him before the committee again, at which point he can make any comments he wishes.

The Chairman: Very well.

Senator Forsey: This is a letter from the Parkdale Community Legal Services?

The Chairman: Yes, from the Parkdale Community Legal Services.

I now call upon Mrs. Charlotte McEwen. The committee clerk will distribute copies of the statement of the Voice of Women provided to us by Mrs. McEwen.

Mrs. McEwen, do you have a statement, or do you wish to read this statement? Please go ahead, and any questions honourable senators have will follow.

Mrs. Charlotte McEwen Member, National Council, Voice of Women: I wish to thank the Standing Senate Committee on Foreign Affairs for this opportunity to appear before you, representing a national organization. There has been very little opportunity for the people of Canada to examine this bill. I think perhaps some of that is due to one of the reports in the *Globe and Mail* which indicated that it had been passed on February 27, that it was a fait accompli.

You will have received a telegraph from the national co-ordinator of the Voice of Women, an organization of Canadian women dedicated to the United Nations ideal of equality, development and peace. This telegram protests the superhuman powers that would be granted to the Minister of Manpower and Immigration under Bill C-85, an act respecting immigration security, and commends the Senate for their determination to refer this bill to a committee for further consideration.

At this point I wish to state that we were very grateful to have the opportunity to hear the briefing from departmental officials, because we have found this a very complicated issue to grasp.

The Ottawa Public Affairs Group of the Voice of Women wish to expand on the reasons for our opposition to Bill C-85, which was rushed through the House of Commons on February 27, with only two hours of discussion, and to add our commendation to the honourable members of the Senate for their decision to give this bill adequate consideration without constraints of time, and in the light of Canadian principles of fair play and justice.

We have noted with growing alarm that in spite of moves to set up appeal procedures in recent years there has been a growing trend toward withholding information in

immigration matters. We therefore oppose the principle of Bill C-85, which would give the Minister of Manpower and Immigration and his officers expanded arbitrary powers to refuse visitors at the border without giving them an opportunity to appeal or even of being told why they are being refused. This refusal, furthermore, could be based on evidence received by the minister from secret and protected sources, anything which in his opinion could indicate the person might engage in violent activities which might endanger others. We object to such arbitrary power, and the right this bill would give the minister to withhold the evidence and the sources of the evidence on which his decisions would be based.

We are confused and dismayed by the apparently contradictory arguments the minister has made about persons previously screened and holding entry visas. Mr. Andras stated in the House of Commons, at page 11262 of *Hansard*, that people holding visas have the right of appeal. If, however, the evidence and source of evidence are withheld to protect sensitive sources there is in fact no effective appeal.

We note that this bill was introduced as a temporary measure to prevent violent activities during Habitat and the Olympics. We also note, as Senator Smith quoted the minister, that the new immigration bill to be introduced in the fall will "embrace the concerns of this temporary bill." That is at page 1831 of *Debates of the Senate*, of March 3. As Senator Smith also pointed out, there is no provision in Bill C-85 for protection against the abuse of this power.

I should like to depart from the text to quote a case of mistaken identity. A number of years ago there was the Knott case, which was found to be one of mistaken identiy when it was examined. I would also refer to the case of Mulford Q. Sibley, the Quaker professor, whom the Voice of Women had invited to speak in Winnipeg in March, 1965. He was coming to speak to our group there about American foreign affairs and the war in Vietnam. He was turned around at the airport and sent back. At that time, a second look at the frivolous but politically motivated information on which his turning back was based led to his being admitted at a later date. Someone had resurrected an article he had at one time written about free love, and this was the reason why he had originally been turned back at the border.

We note that its extension to the end of December, although both international events will be over by the end of July, spans the months when foreign students will be arriving for university courses, and when the sessions of the United Nations will be held in New York. It is not beyond the bounds of possibility that false and misleading information might be circulated in order to bar, for instance, speakers from the United Nations sessions, who might be invited to speak in Canada to tell about their countries' position at the United Nations, thus interfering with the right of Canadians to first-hand information on controversial and danger-fraught areas of the world affairs.

While well aware of the possibilities this bill is supposed to prevent, like every Canadian not wanting to see any untoward event occur, we feel it could not prevent them in any case, but that it could lead to the permanent setting aside of the principles of fair play and justice for which Canada is known around the world. In fact we feel it would mean the total abolition of the rule of law in immigration matters, not an addition to the law but a removal of all law.

We therefore most sincerely urge you to recommend the withdrawal of Bill C-85. Thank you for your attention.

The Chairman: Thank you, Mrs. McEwen. Are there any questions?

Senator Macnaughton: Mr. Chairman, I do not want to delay the proceedings any further but I find the last statement slightly extraordinary.

> In fact, we feel it would mean the total abolition of the rule of law in immigration matters, not an addition to the law but a removal of all law.

I do not know what you mean by that. Surely the people who are operating the country are entitled to protect the country from things they do not want to take place in the country. They have been chosen as the representatives of the country. You would just open the door wide.

Mrs. McEwen: There are other ways in which people can be screened. If a person is found within a country, as we have just heard, as not a bona fide immigrant or not a bona fide visitor, he can be picked up by the police. The law is there. He does have a hearing. He has the due process of law and the evidence has to come out. There are provisions, as we have heard, for dealing with this.

Senator Macnaughton: The bill we are dealing with today, madam, is an exceptional act for a particular purpose, trying to make sure that the law is applied, a law of safety for the citizens of Canada. What is it you would have the country do—open it up wide? You would destroy the law. Law does not mean licence; it means proper control.

Mrs. McEwen: Usually, in the concept of law, sir, it also includes respect for due process. This is completely wiped out by this.

Senator Macnaughton: Those are nineteenth century terms which do not apply to present conditions. I do not say I am right. I am trying to draw from you a statement of fact. This seems to be a very interesting statement of opinion.

Mrs. McEwen: If one does withdraw the due process, sir, is this not withdrawing the legal concepts upon which this country is based?

Senator Macnaughton: I do not think this bill is going to upset the Supreme Court and all the other due processes of law that we have established.

Mrs. McEwen: We find a difficulty here in seeing how a person, who is excluded at the border, has access to the Supreme Court. There is no way.

Senator Macnaughton: We are playing on words, madam.

Mrs. McEwen: There are other ways, if there is information coming to the officers concerned. They are concerned particularly about this period and perhaps they could bring in a regulation that any visitor coming must come with a passport or visa. If we are concerned, there are other ways of doing it. I am just saying that we feel the dangers of this bill far outweigh any possibility of doing what it is supposed to do because we do not think it will do it anyway.

Senator Laird: Madam, Senator Haig is absolutely right. There is no way you could possibly do that with the multitude of visitors coming in here. The process you have

suggested is an unlikely one. People have got to move back and forth across the border and come into Canada on a different basis than everyone having a passport or visa.

Mrs. McEwen: It depends how seriously we feel this is a threat.

Senator Haig: We have also heard that the minister may seize information which he decides is not proper for publication. What is wrong with that? If he can get confidential information from outside sources, and discloses it in the Windsor *Star*, which would the last paper he would want to publish it in, where is he going to get his information in the future about these terrorists the bill provides against? There has got to be some confidentiality.

Mrs. McEwen: I would submit that in all seriousness under section 21 of the Immigration Appeal Board Act the minister does have arbitrary power but it has to be reasonable. It has to be shared with another minister of the Crown, with Mr. Allmand.

Senator Haig: That is confidential information!

Mrs. McEwen: And it has to be shown to have come from respected intelligence or criminal security sources. I would submit, if you look at this Bill C-85 carefully, those safeguards have also been removed. In other words, he can act on any frivolous gossip that comes from any source, political or whatever, or personally motivating.

Senator Connolly: Ultimately, Mrs. McEwen, the minister is going to be answerable, I suppose, and he will have to . . .

Mrs. McEwen: There is no provision; I am sorry.

Senator Connolly: The bill does not have to say that the minister will be answerable. He will be answerable in the House of Commons and, ultimately, I suppose he would be answerable to the electorate.

You talk about other ways of achieving this. If you do prescribe other ways of doing it, I have difficulty trying to convince myself that you are not going to get back finally to an arbitrary decision as to whether a person, upon whom a report has been made and who falls within the ambit of Bill C-85, section 2, is likely to commit an act of violence. Ultimately, an arbitrary decision, a discretionary decision probably will have to be made.

Your complaint is that if the decision is made to so charge him and to act upon the information and deport him, this has been done without right of appeal. This is the point you want, is it not?

Mrs. McEwen: Not only without right of appeal, but without the subject even being notified of why.

Senator Connolly: As I say, I think the minister is ultimately going to be responsible to his colleagues in the house, to which he belongs, and ultimately to the electorate.

Mrs. McEwen: I would submit, sir, if you examine the debate in the House of Commons, the minister wanted removed the words "on reasonable grounds" which was proposed as an amendment because this would, in fact, mean he would be answerable in court.

Senator Connolly: What you fail to say is that those words are added in law and there would be an appeal procedure because the court in Ontario, in a case cited to us by the deputy minister has held that to be the law. Therefore, you are really arguing for a right of appeal.

Mrs. McEwen: Or to have the charge made known, at least, or to have the word "reasonable" written in.

Senator Macnaughton: What charge would you make if your terrorist had already killed several people?

Mrs. McEwen: There is no problem; murder is a criminal offence in this country.

Senator Macnaughton: What about the persons killed, what about the Canadian citizens or any other visitors killed?

Senator Smith (Colchester): You could extend that argument to any kind of offence anywhere.

Senator Macnaughton: As between a terrorist attempting to get in and a minister of the Crown, who is exercising his duly given rights by the citizen? Surely there is a difference.

Senator Smith (Colchester): Mr. Chairman, that is the problem: he does not even know.

Senator Macnaughton: He knows a lot better than most people.

Senator Smith (Colchester): He does not know.

Mrs. McEwen: I still feel that he has knowledge that a person is in and that a person is apt to be a terrorist and is going to commit something of this kind; he has authority in that person being a non-bona fide visitor. He is obviously planning this; he is not a bona fide visitor.

The Chairman: If he were admitted, in the first place, at the port of entry, he would be a visitor to the country. He would be lawfully admitted.

Mrs. McEwen: My point is that there would have to be a distinction made of a bona fide visitor. I think it is not a person who has come in to commit a crime of violence; it is a person who has come in as a peaceful visitor.

The Chairman: The answer though is that the officer at the border, if he does not know or suspect the person and lawfully admits that person, that person is lawfully admitted as a visitor no matter what is in his mind.

Any further question? Thank you, Mrs. McEwen.

Honourable senators, Dr. Whiteside is presenting the brief on behalf of the Canadian Federation of Civil Liberties and Human Rights Associations. Please go ahead, Dr. Whiteside.

Dr. D. Whiteside, President, the Canadian Federation of Civil Liberties and Human Rights Associations: Honourable senators, the Canadian Federation of Civil Liberties and Human Rights Associations, which represents 15 provincial and local libertarian associations from Newfoundland to British Columbia, is very pleased to have this opportunity to discuss our concerns about Bill C-85, the Temporary Immigration Security Bill. Indeed, one of our objections to this proposed legislation is the manner in which it was passed through the House of Commmons without any opportunity for concerned groups being able to express their views on this important bill.

As we reviewed the debates in both houses on this proposed legislation, we were impressed that most of our concerns were fully discussed. Nevertheless, perhaps we

can briefly review these concerns as well as add a point or two for further consideration.

Our major concern is that this proposed legislation will create an instrument which will, invariably, result in widespread injustices if not amended.

We feel that there are two major problems with the Temporary Immigration Security Bill which is now before the Senate. First, it confers an incredible amount of discretionary power upon immigration officials without effective corrective checks and balances. Second, we are concerned about the length of time this temporary measure is to last. We would like to discuss these concerns.

Our Federation recognizes the need for additional security precautions this summer. Nevertheless, we must not allow this need to blind us to the creation of extensive injustices. Under this proposed legislation immigration officials will, in fact, have the power to deport any person in Canada who is not either a citizen or a landed immigrant, or any visitor, on the basis of whether or not the official believes that the person "might" engage in violent activities which might endanger others. We are very concerned about the vagueness of this criterion, and we are also concerned that people deported under the proposed legislation will be denied effective use of the appeal procedures specified in the provisions of the Immigration Act and the Immigration Appeal Board Act.

Given that we expect over one million visitors to Canada this year, immigration officials will face the enormously difficult task of screening out potential terrorists without the benefit of clear criteria. As a result, we fear that the officials will be forced to rely heavily upon their subjective judgement and well established stereotypes. We foresee the distinct possibility that selected classes of people will be judged and systematically deported because of their race, their ethnicity, their age, their style of dress, or their life style, rather than being evaluated on the basis of individual merit or danger. While deportation may create a false sense of security it will leave deportees with a jaundiced view of Canadian justice and a record which will make it difficult for them to ever enter Canada again unless they have a Ministerial waiver. This is too high a price to pay for the illusion that widespread deportations will insure security at the Olympic games.

We are also concerned about the deportation of residents in Canada who have no real protection, that is, those who have work permits, those who are foreign students, and those who have political refugee status. We have information that already work permits are not being renewed for some people in Montreal.

We must emphasize again that large scale deportation, which must surely follow if the proposed legislation is adopted in its present form, will produce widespread injustices and, as such, is unnecessarily harsh and not in Canada's long term interest.

In summary, we strongly recommend that the proposed legislation substitute for the present subjective judgement a clause which requires reasonable grounds for any deportation. We also strongly recommend that clear and effective appeal procedures be added to the proposed legislation. Implicit in this last recommendation is the principle that people being deported have the right to review the evidence which is being used against them in order to insure that such evidence is not coloured by the political or personal bias of the informant. Finally, we remain convinced that the emergency measures should not continue in force until December 31, 1976, but rather be removed as quickly as possible after the end of the Olympic Games in order to insure that the legislation is not used for a purpose for which it was not intended.

Honourable senators, I want to thank you for your kind attention. If you have any questions I will be glad to answer them.

The Chairman: Thank you, Dr. Whiteside. Are there questions, honourable senators?

Senator Connolly: I take it your principal concern is with the appeal procedure, apart from the question of time.

Dr. Whiteside: Yes, if you argue that discretionary power that exists is without checks and balances, then we are concerned about the appeal procedure.

Senator Croll: You are also saying that they would have an opportunity to review the information which the department has with respect to security.

Dr. Whiteside: Yes, but that does not necessarily mean that the department has to disclose where the information came from. The department or government has maintained that in some cases by disclosing the information it would also disclose the source and that that would therefore be damaging to do. We recognize that as a problem.

Senator Connolly: It is a real problem.

Dr. Whiteside: I am not quite sure how one would resolve that, but it seems to me that in most cases the evidence being used against the person could be given without revealing the source of the information. We do that just routinely on credit card checks and things of that nature.

Senator Croll: You recognize that a security check is quite different from a credit card check.

Dr. Whiteside: Surely. We also recognize now that people should know the evidence being used against them in being denied credit and being denied certain services and things of that nature.

I think we have to be concerned in the society that we are moving toward that discretionary power will become more and more important and that what we must fight for is access to information on which decisions are based. If we do not have that information, then we have no capability of rectifying injustices. It seems to me that information as a matter of principle has to be made available even though it is dangerous.

Senator Connolly: There is a great deal in what you say, Dr. Whiteside, on a complaint about the use of arbitrary power. I do not think anyone likes that in this country or in any other free country, but I think the difficulty is recognizably real in the case of an appeal wherein a minister is exercising authority on the basis of information supplied to him from sources which, for practical purposes let us say, cannot be disclosed, since otherwise other security might be jeopardized. You must bear in mind that when the minister then goes before a court on an appeal he will undoubtedly have great difficulty succeeding there if he can only say to the court, "I cannot disclose the source of my information," because the real question then will be a question of the validity or the weight of the evidence, and he will still be in the position of having to say, I should think, "I cannot give you my sources," and, therefore, the

court will not be in a position to weigh the evidence. That is the dilemma, of course. You cannot prove justification of what you want to do if you are the minister, and yet the emergency may be before you; you may have to face it. What do you do in a case like this, in the light of Munich, and in the light of all of the other terrible cases of violence that we have heard about and know about?

Dr. Whiteside: What we are concerned about, senator, is that the number of terrorists who are going to fall under this net that is being thrown across the country is probably infinitesimal, and that this discretionary power is going to be used holus-bolus against all sorts of people.

I would think that the immigration people at the border are going to be much more sensitive to who they let in at this period. They are going to start making judgments, and they will make judgments, on the basis of race, and they will say, "In the case of this person, because of his race, we had perhaps better not take a chance. We are going to play it safe."

The Chairman: That would be in contravention of the act.

Dr. Whiteside: How so? There is nothing that contravenes that judgment.

The Chairman: The bill says,

> 2. The Minister ... may make a deportation order against any person ... who, in his opinion, is likely to engage in acts of violence ...

Senator Langlois: This is not in the opinion of the officials at the border. This is in the minister's opinion.

Dr. Whiteside: We have noticed, over the years, that there is a great discrepancy between what the minister says in the House and what happens in the street. If every piece of legislation that was designed was enforced in the spirit, we would have far fewer problems; but we know in fact that the legislation is not enforced in the way that one would want it to be enforced, and that is what we are concerned about. Essentially, we are giving away tremendous power.

Senator Macnaughton: At the time of EXPO '67 did you have all this trouble? Did the immigration officers act in a very arbitrary way?

Dr. Whiteside: As near as I understand, no; but I think the climate has changed, and I think there is an attempt to create an atmosphere of fear.

Senator Croll: By whom?

Dr. Whiteside: I do not know by whom, but we hear people saying that the emergency legislation had to go through the house in—what, two hours of debate?

Senator Connolly: No, it did not. That, perhaps, was an accident; but, in any event, you are getting a day in court here.

Dr. Whiteside: Yes, and I appreciate that.

Senator Croll: That legislation was discussed among all the members and all the parties and agreed to. It was not one of those things that are run through. It got a day.

Senator Langlois: They had discussions on the bill before it went to the house.

Dr. Whiteside: That is true, but if you look at the climate that exists in Canada today, and if you take into account the peace and order legislation, together with a whole number of things that are happening at one time, I do not think it would be unreasonable for a citizen in Canada to think that things must be getting pretty tough out there, and that everyone wants to protect society, and I think that is what is happening, because of fear.

Senator Croll: And then there are all the other things; such a gun legislation, which we think are essential, but you do not.

Dr. Whiteside: I did not say that. We think that some of this is essential; but some of it, we think, is misdirected. In this case we think it is dangerous. I just do not know what is going to happen. We hear that in Montreal at the moment there are widespread investigations going on by the police, and we know in fact that work permits are not being renewed, and this is very upsetting. Those people whose work permits have not been renewed have never been told why. All they know is that their work permits have not been renewed. What is going to happen with the students? What is going to happen with other people? We just do not know. I think we are moving down a road that is very dangerous.

Senator Bélisle: Mr. Chairman, we are dealing with people who are not Canadian citizens, and who have not been allowed into Canada. Let us stick with that.

The Chairman: I would just like to make a note here. In this presentation Dr. Whiteside says, "... we expect over one million visitors to Canada this year". I think, for the record, that that should read, "over 20 million visitors to Canada," which will be the approximate figure.

Dr. Whiteside: That is a lot of people.

Senator Macnaughton: Mr. Chairman, my question asks for information, of course. On page 2, in the last sentence, we read as follows:

> We foresee the distinct possibility that selected classes of people will be judged and systematically deported because of their race, their ethnicity, their age, their style of dress or their lifestyle, rather than being evaluated on the basis of individual merit or danger.

What do you mean by that paragraph? What are you referring to?

Dr. Whiteside: Basically, I think that if you come face to face with me when, let us say, I am meeting you for the first time, and I do not have clear criteria on how to judge you, what I will do is to judge you on the basis of a stereotype.

If you come from the wrong class, whatever that means in my definition, or the wrong race, or the wrong ethnic group, or the wrong lifestyle, I am going to react to you differently, because I do not have any criteria established with regard to you. I have to react to you on the basis of stereotype. Thus we are led to presume that certain races are engaged in more violent activities than other races, that certain ethnic groups are essentially more liable to engage in violent activities than other groups, or people with certain lifestyles are liable to engage in such activities.

I think that what we would do is treat people as a class, rather than as individuals. Rather than say to you, "What

are you like?" I would react to you as a stereotype, and treat you as a group rather than as an individual, as I should be doing.

We should establish some criteria which would force the immigration people to be more specific as to what they are looking for, so that they do not have to rely on their personal opinion.

Senator Macnaughton: I find that pretty theoretical. Let us suppose there are 150 nations in the world, though there may be 300, for all I know. Suppose you establish a class for 10 of them. If you came from that class, would you be allowed in? You see, your words are, "selected classes of people will be judged and systematically deported".

Dr. Whiteside: Let us be very specific here. We know, for example, that if you have long hair, and are driving a Volkswagen van across the border you are liable to get stopped and have the Volkswagen van searched. On the other hand, if you are travelling with a woman and 16 children, and the van is packed with camping gear you are likely not be searched.

Senator Croll: I have not heard of that as a criterion, but . . .

Dr. Whiteside: It is a class.

Senator Langlois: That has nothing to do with this bill. We are wasting our time.

Dr. Whiteside: I was trying to clarify what I meant by "class". For example, we have a notion, indeed we have experience, that if you are a black coming to the Canadian border, you have more trouble getting across than if you are white. That is what I mean by "class"; you are grouping people on the basis of race. We know that if you do not look middle class you have more trouble. It is documented. There is no mystery to this at all.

Senator Grosart: May I ask the witness this: Would you agree that this bill has nothing to do with class? It only refers to a *person* who is likely to engage in acts of violence. Would you agree that it also has nothing to do with the officials? This is a power given only to the minister. We are dealing with this bill, not with the Immigration Act as a whole. Surely, Mr. Chairman, we should confine ourselves to the bill in this discussion.

Dr. Whiteside: I am pleased to hear what Senator Grosart said, to the effect that the minister was going to be personally involved in each case, but I just do not see how that is possible. It seems to me that the number of cases is going to be very large.

Senator Grosart: I do not think I said that the minister was going to be personally involved.

Senator Croll: He can delegate, of course.

Senator Grosart: The actual statement is to the effect that the minister would involve himself only if he is completely satisfied that he is acting on reliable and substantial information indicating that the person concerned is likely to engage in violent activities. This does not mean that the minister is going to adjudicate. He is going to be satisfied. He may be satisfied on the evidence his officials put before him, of course, and I think you are quite right when you suggest that the minister is not going to adjudicate every one of these cases personally, because he may be out of the country, and we may be confronted with an emergency situation that we have to deal with immediately. The man may be waiting there. I agree with you on that. This bill, however, has nothing to do with class, has nothing to do with immigration officials; it deals only with the minister.

Dr. Whiteside: That is where I disagree. I would argue that because there are no clear criteria, the immigration officials will invariably have to judge on stereotypes, which are based on notions of class. I am talking about classes of people, not economic classes, of course.

Senator Grosart: You are talking about the Immigration Act as it stands.

Dr. Whiteside: I am talking about the immigration official. As the person comes to the gate to get in, the immigration official is going to have to react to him. Now in the absence of clear criteria saying that you have to have reasonable grounds before you can deport him, he is going to be able to act on the basis of the stereotype that exists.

Senator Grosart: But would you not agree that this would go to inquiry in the usual way, if it is the official at the border? This bill has nothing to do with the official at the border.

Dr. Whiteside: But the official at the border is obviously the one who would make a recommendation to the minister that this person be deported.

Senator Grosart: Oh, no, no.

Dr. Whiteside: This person comes to the border and comes to the immigration official who looks at him and asks, "What is your name?" He gives his name, and the official looks down the list and finds that the person is not on the list, but he is still not sure that he is not a terrorist, so he looks at the guy and he can tell that he might do something. I suspect that what he would do then would be to hold him in the building somewhere while he was contacting his superior and saying, "I have this person here who looks like he might get into trouble, and I would like to deport him," and I suspect that someplace through the channel would come the message to deport him. If we are going to have this number of people coming across the border, we are certainly going to have a more efficient system than having everybody come to Ottawa.

Senator Grosart: But would you not agree that this bill refers only to what the minister may do? It appears to have nothing to do with what the official at the border may do. This is where the minister moves in to use the extraordinary power other than that now existing at the border. So what you are complaining about—and you may be right—is that he may not make known the whole story. In the same way the police will check a little harder on anybody driving a sports car, particularly if the driver is young, and with good reason. If the evidence indicates that a person is driving irrationally, then such a person is more likely to be contravening the law than somebody who is not driving irrationally. However, that does not concern me. I am concerned with this extraordinary power given to the minister, and I would be much more impressed by some evidence from you as to the possible abuse of that extraordinary power by the minister, and not its abuse by the officials.

Dr. Whiteside: Well, if the minister has not had knowledge based on evidence, then what we are trying to do is to deny the power so that there won't be any evidence.

Senator Grosart: If you are concentrating your remarks on that point, I would be far more impressed than if you concentrate your remarks on the officials at the border. This is an extraordinary process, particularly when the officials at the border may have already let the man in. Now you have already given evidence of people being denied work permits, and the assumption is that it is on the grounds covered by this bill. Have you some evidence on that; and who is refusing the work permits?

Dr. Whiteside: The immigration authorities. Of course we have associations across the country and la ligue de droit de l'homme in Montreal is one of our members and, of course, being a civil liberties association in such a large city, they receive lots of complaints. Even in the press we see reports of the Quebec police and the RCMP making investigations of these groups whom they suspect of possible involvement in any sort of activity.

The Chairman: But surely this has no bearing on this bill.

Senator Grosart: But I am asking who is refusing those work permits now, and what work permits are being refused.

Dr. Whiteside: I was trying to get to that. One of the lawyers in la ligue de droit de l'homme to whom I talked last night when I was trying to get some information told me what was happening.

Senator Smith (Colchester): That is hearsay.

The Chairman: But surely it is something which has nothing to do with this bill.

Senator Grosart: It has everything to do with this bill, Mr. Chairman, because these are the specific groups that are not excepted in clause 2 of the bill. It could not have more to do with the bill, because we are now dealing with the groups that is not exempt.

Dr. Whiteside: This is a very vulnerable group of people. Our information is obviously hearsay, but the lawyer who is handling these cases says these people who routinely seek work permits to be renewed are now having them refused.

Senator Grosart: Under this bill?

Dr. Whiteside: Not under this bill.

The Chairman: That is exactly my point. Those work permits can be refused arbitrarily and without reason whether this bill is passed or not.

Senator Grosart: But the point is that this bill specifically brings those people now under the ministerial power of deportation which they have not been under before. That is the point that I am making. These people who are lawful residents are now under this power. And these are the very people who could be affected by this bill. The minister could move in on somebody who has a work permit or somebody who has a visitor's permit. He can move in on a student. He could not do this before, but he can do it now. That is why I am asking if this has already happened. I do not think my questioning is at all irrelevant.

Senator Lafond: But it does not refer to people who are lawfully admitted to Canada or who lawfully have work permits.

Senator Grosart: I think we have had clarification of that. I do not think it is referring to people who are not lawfully in Canada but to people who are not lawfully in Canada for permanent residence. That is the particular class excepted. These people do not have permanent residence and therefore they are the people this bill is directed against. So I am asking the witness if he has evidence that is not just hearsay and if he can give us some cases where it appears that this power is already being exercised at some other level.

Dr. Whiteside: If you force me into direct evidence, no, but you must recognize that I am national president of an organization and I receive information, and I act on the basis of information received.

Senator Croll: But it is not abnormal for the immigration department when it gives a man a three-month permit or a six-month permit not to renew it thereafter. That happens every day right across this country; it is nothing new at all.

Senator Laird: Let us say it happened to me today under (d)—a refusal to extend.

Senator Croll: Those of us who deal with immigration matters know that that happens. A person comes in and says, "I want to work for three months," and so he works for three months and then he comes back and they give him a further six-month permit and say, "Don't come back any more." But he does come back and they say, "Too bad. Refused," because there are jobs in this country and our own people can fill them.

Senator Forsey: What worries me about this, Mr. Chairman, is that when the witness talks about classes and groups and deals with different lifestyles and so forth, I suspect that these are all periphresis, or euphemisms or circumlocutions for Arabs.

Dr. Whiteside: Not always.

Senator Forsey: Well, I am not being funny here, and what the witness is really afraid of is that the terrorists are likely to be Arabs.

Dr. Whiteside: Or the Jewish Defence League, but I agree that the first thing comes to mind is Arabs.

Senator Forsey: All right, include the whole semitic family. But isn't the witness rather afraid that there would be a tendency among these people—and I don't think anybody is going to worry about Swiss people, for example, and I don't think the people will bother the minister about the length of people's hair or whether they are wearing some kind of decoration such as the witness has around his neck. I think there is a possibility that there might be some tendency to say these people belonging to these particular nations are more likely to be terrorists than others. Is that the type of thing which the witness fears; and, if so, does the refusal of work permits under the existing legislation tend to concentrate in terms of Arabian, Jewish or other groups considered likely to be terrorists?

Dr. Whiteside: No.

Senator Forsey: I am inclined to think that in a number of instances the witnesses are exaggerating on one side and some honourable senators of the committee are exaggerating on the other side. Senator Macnaughton said these are nineteenth century concepts. I do not think nineteeth century concepts should be thrown out the window.

Senator Macnaughton: I did not say that; nor did I imply it.

Senator Forsey: I think we all accept the necessity for certain limitations in certain special types of situations, which certainly did not exist when I was a youngster, nor during the nineteenth century. However, many are concerned that the proposal of the government will result in duplication.

Dr. Whiteside: Yes, and we are also arriving at a different balance in this society and, in my opinion, are moving too far over to one side. As a consequence, there are bound to be injustices and it seems to me that we must carefully try to achieve a better balance.

Senator Connolly: The whole situation involves a matter of a little injustice, perhaps and a great deal of tragedy, does it not? This is really what we have to decide. Do we face an emergency which justifies taking a chance on civil rights which might exist and be infringed, as against the possibility of a murder, bombing or something such as the terrible events which took place at the Munich Olympics? I believe, Mr. Chairman, we are at the point at which we can vote.

The Chairman: Then I will thank Dr. Whiteside for his presentation and his answers to the questions.

Senator Croll: Mr. Chairman, may I ask if Mr. Gotlieb has any comment at all on the document forwarded by the Parkdale Community Legal Services?

The Chairman: Mr. Gotlieb if you have anything specifically to add in response to the evidence which has been given, plase do so.

Mr. Gotlieb: I would like to repeat, as a general comment, the assurance that I gave the committee that the minister would be personally involved and responsible for the decisions and if he were absent I would expect the acting minister to perform in exactly the same fashion. It is very dangerous perhaps to crystal ball gaze. It is only fair to say that as officials envisage the working of this bill, if it becomes law, we are going to be dealing with a very small number of cases, perhaps a handful. I cannot be sure. I might be out by 100 per cent or 200 per cent. It might be 15 or two. We are dealing with exceptional cases. We are dealing with individuals, as has been said here, about whom there is some reason to believe that he or she is likely to engage in these acts in Canada. It will not be a matter of intuition or gut feeling.

Senator Langlois: Or looks.

Mr. Gotlieb: Or looks. It will be on the basis of information that some individual or individuals may be planning an attack on Canada or planning to commit an illegal act.

Senator Macnaughton: Have you any reason to believe that the minister may suddenly become a dictator overnight?

Mr. Gotlieb: No, I do not.

Senator Laird: The mere fact that there is legislation of this kind will probably scare off a lot of would-be terrorists.

Senator Croll: That is the idea. Is there anything in the letter that . . .

Mr. Gotlieb: In the letter itself, senator—I have read the letter quickly, and I would like to go on record as saying that there are a number of statements in the letter with which I do not agree. They are no doubt well inspired, but are incorrect. I do not think you want me to go into detail at this time.

Senator Croll: As a matter of fact, I did not agree with some of them either.

Senator Forsey: Mr. Chairman, there is one point in the letter that especially concerns me—it is the middle of page 2—the possibility that among the people deported might be somebody who had the same name or looked like one of the known terrorists. I wonder if there is any kind of protection against that. That worries me a little bit. I remember some years ago a member of one of our local unions in the Canadian Congress of Labour in Ottawa had a terrible amount of trouble because he was constantly getting dunning letters addressed to Aurèle Séguin, which happened to be his name. That is not an uncommon French-Canadian name. He had a terrible time trying to prove that he wasn't the Aurèle Séguin in question. There is always the possibility of mistaken identity. Is there any kind of safeguard here?

Mr. Gotlieb: In the first situation, if there were an appeal right, if he were within one of the four groups, he certainly could make that case. If he or she were not within the four groups and there was a case of mistaken identity, I would make two comments. One is that the vast majority of visitors have no appeal rights. They do not come on visas. They come from the United States, from England or France. There is that possibility. In an inquiry that would be held, that is certainly one of the things they would bring forward. There has to be a form of inquiry under the existing law, aside from this bill, and the individual can be represented by a lawyer. In this instance, all I can say is that if a person did not have an appeal right because he was not in the group, the last thing that would happen would be a case of mistaken identity, because in the case of such a person identity would be the most important single thing to be established—the individual profile of the person: was he the somebody who did something somewhere else? So that with regard to fingerprinting, and all the other techniques used in the pursuit of people who are believed to be criminals or believed to be engaged in violent action, the first problem, from my own experience, is identity. That is the most important thing. That and the allegation would be the two serious things.

Senator Grosart: I am surprised at the statement of the deputy minister that the bill will deal only with a very small number of people. If that is so, it is like using a hammer to swat a fly. My impression is that we have many other means of dealing with these people.

You only have to read the newspapers to know that there are many people in Canada who entered Canada through the immigration screening process, and whether they were likely at the time to engage in acts of violence, they are engaging in acts of violence. I am not saying they are in any higher proportion than those who have been here all their lives, but there is plenty of evidence of that sort of thing. Already we are experiencing many acts of violence that are being committed by people who have come into this country as immigrants.

I do not understand why the suggestion is that there is only a few. The evidence is to the contrary. At the last Olympic games, the evidence is that there were hundreds of people who entered the host country for the purpose of committing acts of violence, and at least 30 or 40 were identified.

Mr. Gotlieb: There are many other situations whereby we can deal with the persons through other means. For example, if a person requires a visa to enter Canada, we simply do not admit that person because he has not got a visa. He may also happen to be a terrorist, but we do not have to develop that argument.

Secondly, he may be trying to enter with the use of false documentation. The immigration officer may recognize the passport as being false, in which case the individual is not a bona fide visitor and, for that reason, he is deported. In such cases, one does not need security information or security evidence.

There are many ways of catching a fish. Unfortunately, there are some holes in the net, and the purpose of this bill is to clog those holes.

I do not want to mislead the committee. I may be wrong. I am just giving an intuitive feeling that the people who are caught by this net will be the very serious cases indeed. In other cases, the individuals concerned will be caught by other means.

Senator Croll: Mr. Chairman, I move that we report the bill.

Senator Grosart: Mr. Chairman, I should like to move that the committee adjourn for the purpose of proposing amendments to this bill at a subsequent meeting at which the minister will be present. It is obviously senseless to propose amendments today in the minister's absence. It is our usual custom to propose amendments, when possible, with the minister present and have the minister either accept them or reject them.

Senator Langlois: When is the minister expected back?

Mr. Gotlieb: I expect he will be back in the latter part of the week. He was originally due back next Monday, but I understand he will now be back on Thursday.

Senator Grosart: How long will he be away altogether?

Mr. Gotlieb: I think he will be back this Thursday.

Senator Grosart: But how long has he been away?

Mr. Gotlieb: He was away last week at the OECD Conference in Paris and is due back this week.

Senator Grosart: So, if he was away again for some period in the next two weeks, it would be pretty difficult for him to take a personal interest in cases that might come up during that time.

Mr. Gotlieb: I did say, senator, that if the minister were not available, then the acting minister, or the minister responsible for the immigration program, in any case of this sort, would take the decision, assuming the minister himself could not be reached.

Senator Grosart: Someone who may have no knowledge of the act whatsoever, as has very often happened with acting ministers.

I move that the committee adjourn, Mr. Chairman, for the simple reason that it is our custom to have amendments placed before the minister.

Senator Connolly: That, of course, is not necessary. The minister need not be present.

Senator Grosart: I am saying that that has been the normal procedure of Senate committees in amending bills.

Senator Connolly: On the contrary, we have amended many bills without the minister being present.

Senator Grosart: I think the record will show clearly that the vast majority of amendments by the Senate are those proposed while the minister is in attendance.

Senator Langlois: Can the minister not be reached by telephone?

The Chairman: Certainly every effort could be made to see that the minister could attend before the next meeting of the committee, Senator Grosart. Could we not have the amendments before that time, so that the members of the committee could be considering them in the interim?

Senator Grosart: We would be very glad to put them in writing and give them to you, Mr. Chairman.

Senator Macnaughton: You would not have them now, would you?

Senator Grosart: I can tell you what they will deal with. The curtailment of the discretionary power of the minister to a statement of some kind by the minister that he has received and examined information upon which he bases the opinion upon which he would act, if clause 2 becomes operative.

Senator Laird: That would be disclosed in the information.

Senator Grosart: It is the "reasonable grounds" clause.

Senator Forsey: Similar to section 21 in the Immigration Appeal Board Act.

Senator Grosart: The second one would be, as I see it now, that the Solicitor General would be joined to the minister's action, as it is in the present act. That protection is already provided in the act, with the minister and the Solicitor General approving the action, the reason being of course to involve the Ministry of Justice in the decision.

The Chairman: Senator Grosart, if you could let me have those amendments when you and Senator Smith (Colchester) have them ready, I will see that they are circulated to all members of the committee.

Senator Grosart: We will get it to you tomorrow.

The Chairman: In the meantime, would the honourable senators give me this discretion: if the minister is back on time on Thursday, we will continue with this matter on Thursday morning at our regular time; and if he is not able to be back before the committee next Tuesday, we will go on, on Thursday morning, with the witnesses we now have planned and reconvene this particular hearing on Tuesday of next week.

Hon. Senators: Agreed.

The committee adjourned.

Ottawa, Thursday, March 11, 1976.

The Standing Senate Committee on Foreign Affairs, to which was referred Bill C-85, respecting immigration security, met this day at 10 a.m. to give consideration to the bill.

Senator George van Roggen (*Chairman*) in the Chair.

The Chairman: Honourable senators, on our adjournment last Tuesday, after hearing from the deputy minister relative to Bill C-85, Senator Grosart indicated that he and Senator Smith (Colchester) would like to offer amendments to the bill, and requested also that the minister appear before the committee. The minister was then out of town. He returned last night. I would like to welcome him here this morning, and again welcome the deputy minister, Mr. Gotlieb, and also Mr. Sheehan and Mr. Black. I welcome also a new member to our committee, Senator Smith (Colchester).

The usual practice would be to have a rather extensive opening statement from the minister. As we had that from his deputy two days ago, and an extensive discussion on the bill, I will not call upon the minister to make an extensive opening statement, but he may have some remarks he would like to make to open the proceedings this morning. I will now call on him.

The Honourable Robert Andras, Minister of Manpower and Immigration: Mr. Chairman and honourable senators, I appreciate this opportunity to appear before you. I am sorry I was not available earlier, but I was tied up in other matters abroad. I returned last night with a brief opportunity to review the transcripts of your discussions, and the presentation made by my deputy minister and other officials during your debates the other day, and, indeed, to look at the proposals for amending the bill that are now before you.

I do not think I can really add a great deal to what has been said in the previous debates before this committee, except to assure honourable senators, as my deputy has clearly indicated, that, first, we believe, hopefully, that we will be dealing, under this bill, with very few cases. This is not a massive or wholesale situation. Indeed, if it were, we could be quite alarmed, even more alarmed than the possibility of a few people attempting to do things in this country which would be undesirable.

I wish also to assure honourable senators that it would be a personal exercise of judgment in the, hopefully, few cases that might arise. In the only really similar procedures which relate particularly to lodging before the Immigration Appeal Board of a section 21 certificate—I thing you have been through that—it has been clearly an exercise of ministerial discretion. I know of no occasion, in my three years as minister and in none of the previous cases I have examined, where the minister has not been personally involved in a very difficult and thorough way.

We spend an extaordinary amount of time in my department over the few situations that arise that could be implied by this bill. It is just extraordinary how much time, since they are quantitatively small but qualitatively so bothersome—days and days when we have cases where we have to examine this very thoroughly. I know the personal involvement of my predecessors, and I assure you that that would be the case if we have to use this—and I hope, indeed, that we do not.

The expiry date of the bill came in for some discussion; and, again, I simply want to reiterate that we wanted to cover clearly the Olympics, Habitat, and a period after that; and also we were recognizing that the very process of placing this temporary immigration security measure before Parliament implies the recognition of a weakness in the bill that we think we have identified, and also begs the question that since we are proceeding fairly vigorously with the much more profound approach to immigration policy, which will end up with a new Immigration Act, this area should be examined more comprehensively when time permits.

We do intend to present a new immigration bill, a much more profound bill than this one, before the end of 1976. We chose that date to try to bridge that period. No doubt there are many other aspects that might arise, but perhaps it would be better if I ceased talking, and listened.

The Chairman: Thank you, Mr. Minister. Honourable senators, are there general questions arising out of the minister's remarks, before I ask Senator Grosart or Senator Smith for their amendments?

Senator Laird: Mr. Chairman, since we have covered the field so thoroughly, I suggest, in the matter of expedition, that we get a succinct statement from Senator Grosart as to what improvement he suggests these amendments make.

The Chairman: I am not sure if it is Senator Grosart or Senator Smith, but I will recognize either.

Senator Grosart: Mr. Chairman, perhaps I could first thank the minister for coming, and explain to him why some of us thought it would improve our consideration of the bill if we had him appear. The reason, of course, is that we feel we should suggest certain modifications to the bill by way of amendment. Although we had a very patient and excellent explanation of the bill from his deputy, Mr. Gotlieb, and the officials, we did not feel it would be fair to put the amendments and ask them to discuss them, and particularly to accept or reject them. That is why we asked that the minister come before us this morning. We hope that we will not keep him too long. All he has to do is say that he will accept the amendments, and we will be away very shortly.

We are more or less in complete agreement with the importance of, and indeed the necessity for, the bill and its temporary nature under certain circumstances, particularly as it is to be followed by another act. As you have said, and the deputy minister told us at the former meeting, it is not expected that there will be very many cases under the provisions of the bill. This seems to me to point up the fact that we should be very careful of the precedents we create in this bill, because amendments will be made, and we are not aware at this stage whether there will be a new bill or amendments to the existing act at a later date. Therefore we think it extremely important that inadvisable precedents not be created at this time in this amendment.

We are also in agreement that the anticipated exigencies of the coming situation, or perhaps the present situation, indicate a necessity for the discretionary powers of the minister being extended, as the amendment suggests, to certain groups, certain classifications which are not now covered by similar discretionary powers. I emphasize the word "similar" because the amendment which Senator Smith will suggest will indicate that one of the cautions

surrounding some of the discretionary powers now existing might be carried into this discretionary power in a similar type of situation. However, we do suggest that the discretionary power, the very exceptional discretionary power—not exceptional, perhaps, in relation to the bill, but the general discretionary power given to ministers—be modified; that the discretionary power requested in this bill be modified to bring it more into line with what I would call the Canadian concept of humanitarianism and respect for individual rights.

We do not contest the point that there are times when individual rights have to be subservient to general rights, but extreme care should be taken in any such instances. The changes that we are suggesting would remove the concern of a great many Canadians, the majority of whom are fully in agreement with the government as to the importance of achieving the intention of this bill. They are not crackpots. Even if the intention of the bill were reasonably and well carried out, as it would be, certainly, under the present minister, they are concerned about creating this precedent in this particular bill, which deals, largely, with human beings and their rights.

We have asked you to discuss these changes with us because we are fully aware of the reasonable approach you take to these matters and know that your concern for individual rights is no less than ours. It is in that spirit that we will be suggesting these amendments, and we know you will accept them in that spirit.

There is one matter which arises out of your opening remarks that I do not think we have discussed, that being why you perceive this rather sudden emergency. I have a suspicion in the back of my mind that there is almost an immediate case, or immediate apprehension of something along this line. Why has this sudden urgency arisen at this time? If it was to cover the whole area of the Olympics, and so forth, one would have thought this bill would have come before us long before this.

We would be interested to know whether there is some particular reason that you can disclose as to why there appears to be this urgency at this time, other than that the Olympics will be opening fairly soon.

Hon. Mr. Andras: Mr. Chairman, I would not want to have my remarks, nor the action taken, interpreted as an indication that we are aware of a carefully planned plot; that there is an immediate case or cases that we can identify. In fact, if such cases did exist, I probably could not identify them anyway. We are not aware of any great plot afoot.

As was noted in previous discussions, I already have the power under sections 7(4) and 7(5) to declare a person to have ceased to be a non-immigrant—I prefer the word "visitor," and the new legislation will reflect that; it is a much simpler expression—ceased to be a visitor because he is, in the opinion of a minister—and it quite definitely states that—in the opinion of a minister, a person described in the prohibited classes. There is one gap, that being the person who might be plotting violent action against a non-democratic institution, as we understand that term in this country, such as an attack on the leader of a country, or the embassy of a country which we do not consider, by Canadian standards, to be democratic. Such an attack, of course, would, nevertheless, be very objectionable and undesirable. So, that is one weakness of the present act. Nevertheless, we thought, and have been operating under the assumption for some time—perhaps even before my time as minister—that the present act provided the necessary powers. However, Department of Justice officials and advisers from within the Department of Manpower and Immigration came to me late last fall, stimulated by a re-examination of the protective measures being prepared in connection with the Olympics, with the concern that section 7(4) and 7(5) do not in fact cover the particular type of case we are trying to cover by the temporary immigration security bill.

I then discussed it, on a non-partisan basis, with my colleagues in Parliament. It was simply because of the legislative timetable, and some concerns about the wording of the earlier draft of the bill that there was another month's delay. There was some misunderstanding in one or two cases on the part of some members of the other parties as to what the intent was, and when the light dawned, they then agreed that we should go ahead with the bill. We chose the first possible occasion after the Christmas recess to bring the bill in.

The emergency, of course, is that the Olympics will be upon us and actually operating within a very few months, and if there is danger—and we think there is implied dangers in this whole situation—then, of course, anyone making plans to do something of a violent nature at the Olympics or the Habitat Conference probably would be planning to enter Canada considerably in advance of the actual event taking place.

I have to admit, senator, that a few months ago we thought we were covered, but on a re-examination of the protective measures, stimulated by our concern over the Olympics, we found that we had to take further measures.

I might add, the very nature of the action we are proposing does send a signal around the world, and I do not think it is the kind of thing that can sit long in a period of hiatus, if I can describe it that way, without corrective measures being taken. We have now signalled that there is a weakness in our immigration law, and we believe there is one. We are about to close that gap, and in closing that gap we feel there should be the shortest possible period between the signal and the closing. Having made up our minds that there is a gap, it behooves us to move very quickly in closing that gap, especially after having publicized the fact of its existence.

The Chairman: Senator Smith.

Senator Smith (Colchester): Mr. Chairman, I should like to join in thanking the minister for taking the time to appear before us to discuss this matter. He has already, by his comments, alluded to one or two of the thoughts that, speaking for myself, were disturbing me. I should also like to say that the presentation by Mr. Gotlieb and his associates satisfied us on quite a number of the matters that gave us concern when we first came to consider the bill. I thought it was a very patient and, from our point of view, satisfactory presentation that was made.

The one thing remaining is the arbitrary power conferred, which does not seem to us to be consistent with the general principles on which we would like to see ministerial powers exercised—and this is not aimed, I hasten to say, at your good self, Mr. Minister, or any other person, but rather because it is the kind of thing, even though it does exist to some extent in the present act, which we do not think should be encouraged by once again making it a precedent. We would like to see it kept out of the revised act, and this discussion might perhaps be some stimulus

towards considering whether or not the new act might incorporate some of the ideas we are putting forward.

With those preliminary remarks, I would like in a moment to offer an amendment. As you will have noticed, there are three versions of what essentially is intended to accomplish the same end.

I should have said that one of the things that we are convinced of, by the discussion of the other day, is the necessity of protecting your sources of information; the necessity also of avoiding the position where you could be placed before some tribunal and forced to disclose information which might, in the long run, tend to lead to those sources—and we accept that as a very substantial danger, which we ought not to encourage in any way.

Therefore, we have tried to draft these proposals in a way to avoid the necessity or the danger of placing you before a court or tribunal which could make you disclose any information at all which you thought would be prejudicial to the country or to the operation of your department or other departments.

I am advised by counsel that perhaps the actual form in which I have drafted these documents may not be in line with the way he would like to see them or would think they might be thus drafted, but I think the substance is clear enough. If any of the amendments should be accepted, I am sure counsel could remedy any of the technical difficulties without too much trouble.

The first one I would like to present is the one which has on the top of it the number "2", and it is taken from section 21 of the Immigration Appeal Board Act. That is the particular requirement that I have put into the amendment and it simply provides, as section 21 of that Immigration Appeal Board Act does:

> the opinion of the Minister and the Solicitor General certified by them to be based upon security or criminal intelligence reports received and considered by them

It did seem to me that, if that was a satisfactory way to deal with the rather wide powers given under that particular portion of section 21, perhaps it would not be out of the way to have this matter dealt with in the same manner.

The Chairman: Excuse me, Senator Smith, but has the paper we have before us, which you were kind enough to have us circulate, spelling out the actual wording of the proposed amendment, been put on the record? I do not believe it is on the record. I wonder if, for the record, you could read the actual amendments.

Senator Smith (Colchester): I am sorry. For the record, I move:

> That Bill C-85 be amended by inserting after the words "and who, in" in the 10th line thereof the words "the opinion of the Minister and the Solicitor General certified by them to be based upon security or criminal intelligence reports received and considered by them"

By way of clarification, I might say if that amendment were adopted clause 2 of the bill would then read:

> 2. The Minister of Manpower and Immigration may make a deportation order against any person who is not a Canadian citizen and has not been lawfully admitted to Canada for permanent residence and who, in the opinion of the Minister and the Solicitor General certified by them to be based upon security or criminal intelligence reports received and considered by them is likely to engage in acts of violence that would or might endanger the lives or safety of persons in Canada or in other violent criminal activity if admitted to Canada or permitted to remain therein.

I suppose I would have been more in line with good drafting if I had added the following words, which appear in the said section 21 of the Immigration Appeal Board Act, in subsection 2 thereof, saying that "a certificate purporting to be signed ... shall"—among other things—"be deemed to be conclusive proof of what is stated therein."

Senator Grosart: I will second the amendment.

The Chairman: Seconded by Senator Grosart.

The minister has some comments on the proposed amendment, before questioning.

Hon. Mr. Andras: I believe that generally they cover the two or three optional amendments that I have received, whether or not they are formally on the record.

The Chairman: They are not formally on the record, but all members of the committee have them.

Senator Grosart: When the minister accepts this amendment, we will drop the other two.

Hon. Mr. Andras: I suspected that may be the case.

Let me say, and I again repeat, that I am sympathetic to the question of civil liberties with respect to the rights of individuals and so on, and this whole area of security is the grey area which has bothered me a great deal when I have had to deal with section 21. I have never dealt with it lightly at all.

I know my colleague, Mr. Allmand, the Solicitor General, and his predecessors have taken the same view. We have spent many difficult hours examining the files and questioning the reports and all of the things that go into the decision making.

However, I have to make some distinction in the question of the application of rights in these matters. Section 21 is applicable to a person who has acquired rights under the Immigration Act by virtue of being a landed immigrant. We have made a very substantial commitment to that person by prescreening abroad, and by the act of delivering to that person landed immigrant status, when they reach a port of entry in Canada and so on.

It is subsequent to that act where we have discovered that through some error, or through some more recent information that some change had to be made, and that person who is a landed immigrant, of course, even with the amendments to the Immigration Appeal Board Act in 1973, which was Bill C-197, retained the full rights of appeal to the Immigration Appeal Board.

The person to whom a section 21 certificate would be applied has been, and is in Canada usually for some time. In fact, I know of no cases that have been exposed to me where that person has not been in Canada for some time. It is because of some fresh information or recognition of an error—it is not in all cases that I can recall—it is fresh information that indicates we have had to take some action. It is usually a person who has run afoul of the immigration law by some other act than the security risk, and who has been ordered deported, and whose appeal is being looked at by the Immigration Appeal Board. That board judges the deportation order in point of fact and in point of law.

I am not a lawyer and if I stumble over some of the precise legal phrases you will forgive me. However, that is the case, as I understand it, in layman's language. They deal first with whether it is legal and whether identity has been established and so on. We are dealing with a landed immigrant who has had a very serious commitment by Canada as to his or her rights.

If the deportation order is ruled valid; in other words, it is a legal deportation order, then and only then does the Immigration Appeal Board have additional rights, which we want to see retained, to exercise what we call compassionate or humanitarian jurisdiction.

Section 21, which is a guillotine at that stage, says if the board has decided the deportation order is legal and valid, but nevertheless for humanitarian or compassionate reasons they would waive the deportation order and land the person, if the Solicitor General and myself have lodged with the board a section 21 certificate, in the circumstances described in the original Immigration Appeal Board Act, then the board is not entitled to exercise that jurisidiction and the deportation order stands.

To sum up, we are dealing in that case with a person who has acquired a great many more rights, if I can come right to the nub of my view on the thing, than a visitor to Canada who has not been prescreened abroad, who has not been granted rights other than the temporary access to our country. So, to that degree, that really negates the principle that was already established in the Immigration Act itself under section 7(4) and section 7(5) where there is no question there, and that has already existed for years.

We are expanding on the technical powers here but not on the principle already established in the immigration law of Canada applicable to a visitor. I must say that I believe a foreigner visiting any other sovereign state than his own, upon whom has not been conferred, in our case, landed immigrant rights or certainly Canadian citizenship, does so as a privilege and not as a right.

There may be considerable dissension about that in certain circles but I feel very strongly about it. I would feel that way as a Canadian going to the United States or to France or to any country in the world, that I visited that country as a matter of privilege on their behalf and not as a matter of right.

So, there is a distinction between the degree of ultimate civil rights protection that you grant to a landed immigrant, or people upon whom we have conferred appeal rights to the Immigration Appeal Board Act, than that of casual visitors. This goes much further than section 7(4) and 7(5).

If that be the will of Parliament when we come to the question of the major amendments to the immigration law, which I hope as I say will be this year, then perhaps so, but on the basis of a temporary immigration security bill, recognizing your thrust and your desire, and applauding the thrust and the desire to protect civil liberties, I regret to say that in practical terms this would widen and restrict my powers even more than exist in the Immigration Act as it now is written.

Senator Smith (Colchester): Perhaps I might be permitted, Mr. Chairman, to make a very short rejoinder. Not to be thought rude in any way, I would like to express the view that we do not really feel that the unfettered power in certain instances in the present act should be there, and that the fact that it is there should not be extended to any new legislation such as this or to any wider class of persons, even though the class of persons that we are trying to deal with here are pretty undesirable citizens.

My second comment is that although I readily agree that the visit to any sovereign country by a person who is not a citizen, or who has not acquired a certain status, is a privilege in the strictest interpretation of the word; yet really, by international usage, it has become something far more than a privilege to be lightly dealt with, at least amoung what one might call the Western nations. I cannot think of a better phrase to denote the kind of nations I mean. While I agree that it is not a right, it is a privilege so widely accepted that it should not be interfered with except upon reasonable grounds, to use the phrase which I have used before in this matter.

Hon. Mr. Andras: Yes. I think it is still the weight of opinion internationally, that it is a privilege and not a right. There is certainly a tendency and an attitude, to which I thoroughly subscribe, that the maximum free movement of people between nations around the world is to be encouraged by all means possible. Nevertheless there is that point, that issue, that moment and circumstance in time, when a sovereign state must, as Senator Grosart said, look at the individual right versus the general right. I know of no country, amoung those we consider to be similar to us in civil libertarian standards, traditions, and so on, which does not hold the view that it is a privilege and not a right to enter a sovereign state of another country. Indeed I know of no other country, particularly among those with which we most often compare ourselves, which does not confer upon the Crown powers very similar to those which we have in 7(4) and 7(5), and, indeed, for a technical extension of those powers in the new bill now before you. The very act of having to show a passport or visas, all these kinds of things, imply the recognition of that; and I believe the new act should clearly state the question of privilege versus right.

Senator Smith (Colchester): I certainly would not dispute your comment that it is a privilege. I do not question that.

Hon. Mr. Andras: I would say, Senator Smith—I do not want to be rude in interrupting you, but merely wish to put some light on it—that we are probably all in uneasy agreement of where you draw the line in these matters, in, as I say, that very grey area. In the new Immigration Act itself we are very seriously examining other protective mechanisms than the kind this amendment would, in the *European* opinion, so precisely provide. I do not think it does anything except possibly restrict the powers that may have to be given to the Crown in these circumstances. But we are looking at other possibilities of how to ensure that our information is based on the opinion of more than one person—and that kind of protective measure.

Unfortunately, in the circumstances of the urgency of this bill, with an event coming up, we simply felt that we had to leave that wider exploration, wider discussion and proposals, to the full and formal presentation of a new Immigration Act, hopefully this year. We are not unconscious at all of what you are concerned about—not at all unconscious of it.

Senator Smith (Colchester): That is certainly a very reasonable sort of exposition of your point of view, which I

accept not as something that I feel able to concur in completely, to the extent of yielding or giving the unrestrictive powers we have been speaking about, but which I respect certainly as reasonable support of your position.

In one of the comments a few moments ago you suggested that this amendment would restrict your powers—and, of course, it would to the extent that the concurrence of the Solicitor General would be necessary. I am wondering if you see in that any serious difficulty in doing what, in your opinion, would have to be done.

Hon. Mr. Andras: There are certainly time problems. As I say, in the case of section 21, where a person is already in Canada, there is appeal before the appeal board. There is a whole process. There is no question of time. It is not an immediate turn-around situation. We are really talking about exclusion from Canada. We have used the word "deportation," because that fits our procedures, and so forth, but it is really exclusion from Canada we are talking about in the temporary immigration security bill. In the case of the use of a section 21 certificate, while the situation is serious and of grave concern to us, it is not as urgent in its time, in its execution, as the temporary immigration security bill is intended to be, which is more an exclusion at the port of entry. That is what we are heading for.

Senator Smith (Colchester): When you speak of "exclusion," I think you must do so purely in a legal sense. Physically the person is, in fact, within the boundaries of Canada, and if you suspect him of being that kind of fellow, he would be in custody.

Hon. Mr. Andras: That is correct. He is most likely to be in detention. But any delay in taking action would be undesirable.

Senator Smith (Colchester): It might be less undesirable, if I may say so, than finally being excluded—from the point of view of the individual. He might be quite willing to trade off a couple of days while you really investigate his situation, if, in return, there was reasonable hope of the minister being satisfied that he should be excluded.

Hon. Mr. Andras: There are situations where we would want a person turned around in the interests of Canada, and the faster we do it the better.

Senator Grosart: What kind of circumstances?

Hon. Mr. Andras: Well, the attraction of terrorist action. I do not want to go too far in elaboration, but that is a concern I have.

Senator Smith (Colchester): Are you saying—if you do not care to answer this, I will understand—that the longer he stays, the more serious is the danger of somebody shooting up that particular place, or some other place, in retribution?

Hon. Mr. Andras: Or something like that.

Senator Grosart: Or engaging in a terrorist activity somewhere else, as a protest against the detention.

Hon. Mr. Andras: We have had, around the world, many examples of that.

Senator Forsey: Is your fear about the delay connected with the fact that this would require a certificate signed by both you and the Solicitor General? Is that what you feel would cause the extra delay?

Hon. Mr. Andras: Yes; and do not forget, Senator Forsey, that in nearly all cases—although in another way this is a bit too restrictive—from the clear statements of security and intelligence reports it is used in section 21, but the urgency of section 21 circumstances is different from the urgency we are talking about in the immigration security bill. Do not forget that my ordering a deportation under the temporary immigration security bill would be by very thorough examination of those reports, which, in the main, emanate exactly from the source to which you referred—that is, the RCMP, which operates under the jurisdiction of the Solicitor General. The Solicitor General would be associated with it as being the minister responsible for the information provided to me by his agency. To add to it the necessity and formality at this stage for a visitor to Canada as opposed to a landed immigrant upon whom we have conferred rights,I think, is an escalation of the procedure and would result in a time delay that might, in the circumstances, not be in the best interests of what we are trying to accomplish.

I envisage that a deportation order under this legislation would state that the deportation was pursuant to the Temporary Immigration Security Act. Frankly, I do not want to be put in the position, because of the source of the information, this grey area—admittedly unconfortably grey area—that might in any way call upon any action that would in any way jeopardize that system.

Senator Smith (Colchester): We thought we avoided that last issue, Mr. Minister, in the amendment submitted.

Hon. Mr. Andras: I am uneasy about it.

The Chairman: Senator Buckwold.

Senator Buckwold: Mr. Minister, am I correct in gathering from what you have said that this bill, basically, brings about a technical improvement to the powers already in your hands under section 7(4) and (5) of the Immigration Act, the purpose of which is to cover a possible weakness in that act?

Hon. Mr. Andras: That is absolutely correct.

Senator Buckwold: And in fact there is no extension of powers to the minister beyond those already conferred in the present Immigration Act?

Hon. Mr. Andras: No extension in principle, that is correct; technically, yes. It means that I can act at the port of entry before the person is admitted, whereas now I can only act after the individual has been admitted, and in those circumstances we hope that the individual runs afoul of immigration law or the criminal law unrelated to the main purpose of their visit. It is a curious thing, but we are rather happy to see that happen, thereby enabling us to act.

Senator Buckwold: Bearing in mind that the Habitat Conference opens May 31, followed shortly thereafter by the XXIst Olympiad, within a relatively few short weeks people will start coming into this country, and to try to debate the principle expressed by Senator Smith (Colchester) in his proposed amendment, which involves the overall concept of the administration of this particular act, would make for a very difficult situation so far as acting to protect the country against the kinds of acts we are talking about, in time for the two international events which will be opening, literally, within a few weeks.

Hon. Mr. Andras: You have very clearly expressed my view, senator. That is quite correct.

Senator Buckwold: Therefore, had you not introduced Bill C-85, you probably would have had those powers, although technically there might have been a weakness?

Hon. Mr. Andras: Yes, and having been made aware of that weakness, I felt I had to come to Parliament, under the immediate circumstances, for correction of that weakness on a temporary basis. That is why we have not made it an amendment to the act itself, but rather a bill on its own with a clear expiry date.

Senator Buckwold: Although I am not a member of the committee, I shall certainly support this bill in the Senate itself. I recognize the urgency of the situation with which we are faced and, for that reason, fully support this bill.

Senator Flynn: There is general support for the bill. Would it be any more acceptable, Mr. Minister, if we were to delete the reference to the Solicitor General?

Hon. Mr. Andras: By far, the bulk of the reports on which I would base my final decision will be criminal-security reports. However, there are other rare sources of information which are perfectly valid, but not of the nature that I can disclose. I would not want to be inhibited in that regard. That is the problem with the amendment in the narrow context of this temporary immigration security bill. I would hope to be able to do much better when we come to the main revision of the Immigration Act itself.

There are other sources, too, that I must consider on rare occasions, and in that respect this amendment would pose some difficulty. I hate to be reticent about some of these matters.

Senator Flynn: What will be the form of deportation orders under the bill as presented?

Hon. Mr. Andras: Having reviewed the information available to me from the various sources and am in agreement that the individual in question was in fact someone who is likely to commit a violent act, or whatever the precise wording of the bill is, then I would issue a deportation order which would make reference to it being a deportation under the Temporary Immigration Security Act.

Senator Flynn: There would be a clear reference in the order to it being under the Temporary Immigration Security Act?

Hon. Mr. Andras: That is correct. I do not believe I have actually exercised my power under section 7(4) or 7(5).

Mr. Warren Black, Director of Legal Services, Department of Manpower and Immigration: It has not been exercised by you personally; it has, on occasion, by your predecessors.

Hon. Mr. Andras: I have made one deportation order directly during my term of office, but it was not under section 7(4) or (5). That deportation involved a ministerial permit which was granted and which I then revoked, accompanied by a deportation order. We did make reference to the section of the act under which that authority rested, as we would in this case.

It would refer to it being a deportation order under the Temporary Immigration Security Act, which would mean, of course, that the individual in question, in my opinion, is a person likely to commit a violent act.

The Chairman: Senator Grosart.

Senator Grosart: Mr. Minister, I am going to continue to urge you to accept some modification of the arbitrary power conferred. It is true that there are already arbitrary powers under the act, but I do not think that justifies any extension, necessarily, not per se. I do not think it is a valid argument that this kind of arbitrary power already exists.

People all around the world who are interested in preserving some kind of democracy are concerned about the conferring of arbitrary powers. Human rights, yes. You are perfectly right in saying that there is a distinction between privilege and right in the matter of entry, but that very argument is used by the Russian authorities in preventing people from emigrating. The Russian authorities consider it their privilege to say whether or not someone can leave the country.

I do not think that argument will stand in this case. The denial of a privilege, I think we can all agree, would be unfair; it can be unjust and discriminatory. If the privilege exists, we must know why that privilege is refused to one person and not to another. There is a very close connection between privilege and right. In fact, you could go so far as to say that all rights are based on privilege.

It may be that we go too far in the proposed amendment. What we are trying to achieve is something in the wording of this bill that will make it clear that there cannot be a purely arbitrary decision made by a minister, particularly a minister who is not directly identified with our system of justice. That is one of the reasons we introduced the suggestion respecting the Solicitor General.

Would you accept an amendment which would delete the reference to the Solicitor General and modify the reference to security or criminal intelligence reports and merely state: " . . . who, in the opinion of the minister, . . . " stating that his decision is based on information that he has received and examined? This would take a good deal of the arbitrariness out of it.

It is all very well to say that no minister is going to refuse someone entry because he does not like the cut of his hair or his colour, but that sort of thing is happening all around the world, and I am concerned with protecting the Canadian concept. If we were at least to say that the minister will state that he has based his decision on information received and examined . . .

The Chairman: Senator Grosart, are you offering an amendment to the amendment?

Senator Grosart: At the moment, Mr. Chairman, I am merely asking the minister if he would consider that modification of the amendment, or those two modifications. In other words, that we take out the reference to the Solicitor General, although I would prefer to see the identification of any such decision with our whole system of justice. Failing that, I think it would be a great improvement if there was this statement. I am not referring to this minister in particular, but it is a fact that this kind of arbitrary power, that could be used to make a purely arbitrary decision based on a reaction such as, "I don't like this man's looks," is what I am trying to guard against. For the minister to say, "I have received and examined information"—and I emphasize the word "I"—would do this. There has been very great emphasis in our discussions on the fact that the minister will be personally involved. There is nothing in the bill before us to guarantee that,

except this statement. We know, as a matter of fact, that a minister is not always personally involved in the exercise of a ministerial discretionary power. Obviously that could not be the case.

Hon. Mr. Andras: I think, senator, it would be in this case as it has been in every section 21 case, of which I think there have been 40 or 50 over the last eight or nine years. I do not think this power has ever been delegated.

Senator Grosart: You are saying, I think, that it would not be, and I agree with you; but that is no guarantee of the humanitarian aspects of this. The humanitarian concept is already written into the act. You make a distinction, and quite rightly so, regarding a person to whom there has been some kind of commitment by Canada; but I do not see that there is all that much difference in the concept of the right or the privilege to be extended to the individual. Certainly, anybody has the right to ask to come to Canada, and generally speaking is entitled, in the broad context of human rights, to know on what grounds he has been refused that right. If a person has asked to come here, I think the least we can do is to make certain that this bill assures that the minister has received and has examined information as a basis for his decision. Would you accept that modification?

Hon. Mr. Andras: No, I could not do that, Senator Grosart. As I was trying to indicate earlier, there may be other mechanisms and other procedures by which the element of arbitrariness can be dealt with. We are exploring those kinds of options and we hope to be putting before Parliament when we deal with the main immigration bill certain sections which will deal with this kind of matter; but at this stage I believe that to put any wording in there which would lead to my being called upon to produce proof for a decision, which would mean producing the information itself before a court, and disclosing the source of that information, in a very sensitive situation, would be unacceptable.

Senator Grosart: But Mr. Minister, this would not happen, because the bill would say, "The minister is required to state," and that is all. There may be better wording that would completely obviate any intention by the courts. The minister may say, "I have received information," and obviously he is not going to act if he has not received information. From your statement, obviously, he is not going to act unless he has examined the information also, and all I am asking is that you put in a provision to the effect that the minister will say, "I have received and examined information."

Hon. Mr. Andras: My concern about that is the same concern I had about what appeared to be a very open kind of amendment in the other place, where they wanted to put in, "on reasonable grounds," and then went on to add another subclause which provided that under no circumstances would these reasonable grounds be required to be produced.

I can visualize a situation in which, if one of these decisions were challenged, the court would say, "You have made a statement that you received that information. Prove it." I would then have to say, "I am sorry. I am not required to prove it." The courts would then say, "All right. The act does not require you to prove it, but under those circumstances, if you will not produce it, we are not satisfied that such proof exists." The deportation order is then invalidated, and we are caught in this circuitous problem.

Senator Grosart: But you would not be, because the bill would say that the minister would be required to state, and that would be all he would have to do: to state. The bill would simply say, "The minister is required to state that he has received and examined information."

I am not a lawyer myself, but it seems to me there would be no way the courts could go behind that. I know the courts will not interpret intention, but it is often a factor in a judicial decision. The intention would merely be to take away this arbitrary power of the minister, which is being used in derogation of human rights in certain places all around the world.

Hon. Mr. Andras: We come to a point, however, at which you have to exercise such arbitrary power or not, and this is always a very delicate matter.

I am acting, in my response to you, very much on the legal advice I have had. It is apparently well established in our jurisprudence that a minister, even with these arbitrary powers, has to exercise them in good faith, and on this point I would like to make reference to Mr. Black, who has been advising me, with the weight of the opinion of the Department of Justice behind him, and ask him to comment on my dilemma.

Senator Grosart: We have considered the cases, and we have had evidence as to the effect of those cases, which mostly were interpreting the concept of reasonable or discretionary power; but what we are dealing with here is a mere requirement that the minister state something. That is all.

Hon. Mr. Andras: My concern is that it just leads to the proof of that statement, and that is where we run into difficulty.

Senator Macnaughton: We have listened to our friend's arguments and, of course, generally speaking, they are very good. If our friend, however, will look at paragraph 2, he will see that the minister is limited, to a certain degree. It says:

> The minister... may make a deportation order against any person.. who, in his opinion, is likely to engage in acts of violence...

I emphasize the words "in his opinion." I would like to emphasize further that we are not dealing here with citizens, or people who have been admitted, but with strangers who are either in the country or are attempting to sneak into the country. The minister, therefore, does not just go off half cocked because he does not like a person's appearance. He must render judgment in accordance with certain conditions, as stated in clause 2.

Hon. Mr. Andras: The words are, "who is likely to engage in acts of violence".

Senator Grosart: Is that not subject to adjudication by the courts?

Hon. Mr. Andras: Well, that is my concern. That is subject to adjudication by the courts, with a proviso in it that if it is expanded beyond my opinion, which requires documentation, proof, and so forth, that is the dilemma, Senator Grosart, and that is where the legal people come in.

Senator Grosart: If the requirement is in the act that the minister is required to state that he has received and

examined information, would that make the actions of the minister subject to review by the courts?

Mr. Black: I might explain, senator, that this question has been looked at many times by the courts, but I think it is generally true that the courts do not like what are called "privative" clauses, that is, clauses, or language, or statutes, which tend to exclude their jurisdiction. From the case law that I have read on this—and I have read quite extensively—the only formula that one can use to be certain that the courts will not step in and review the legality of a decision made by a minister or a tribunal, would consist of the words, "In his opinion." The courts may not step in, I grant, with this formula, but then again, it is likely that the courts would say, "If the legislator had wanted to leave it entirely to the minister, the legislator would have used the words simply 'in his opinion,' and yet the legislator did not do that." The legislator went further and added the additional words which you have suggested. Therefore, we think there was an intention that we should review this order. I think that is the difficulty that Mr. Andras finds himself in this case.

Senator Sparrow: I wonder, Mr. Chairman, since we have an amendment to the bill, if someone wishes to make an amendment to the amendment. If that is the case, that should be done because at some point we should be voting on this amendment. If someone wants to make a further amendment, then I think the committee would be open to that. It seems to me we are going far beyond the amendment that is there at the moment.

The Chairman: I asked Senator Grosart if he wished to make an amendment to the amendment he was seeking the minister's general comments on. It was not a formal amendment. We have only one amendment before us.

Senator Buckwold: If by any chance we accept Senator Smith's amendment, then it would seem completely logical that you should amend the act with respect to section 7(4) and 7(5) because you would have differences in trying to achieve the same objective. I do not think that that would be proper either.

I agree with the minister that the time will come to take a look at the overall situation, but to take one aspect of a technical change and apply certain restrictions which do not apply in the act itself seems to me to be defeating its purpose.

Senator Smith (Colchester): I have just two things I would like to say. First, I think it is perfectly possible to put in a clause which will exclude the right of the courts to examine whatever they might want to examine, and we tried to do that. However, I recognize the justice of Senator Sparrow's comment that the committee has listened to us, the minister has listened to us and explained his point of view very clearly, even if he thinks we perhaps have not been convinced.

If we have not been able to convince the committee—I would put it in that negative way—we have had plenty of opportunity to put our views before the minister and the committee, and I would be quite content to have the vote now.

Senator McElman: I only want to make one comment, Mr. Chairman. There are many arbitrary powers in legislation that has been passed by Parliament. One thing we should never forget in this case, as in other cases, is that if there is misuse of arbitrary power there is an appeal, and that is to Parliament itself. That is where it is dealt with.

Senator MacNaughton: Mr. Chairman, I would call the attention of the committee to clause 1:

> This Act may be cited as the Temporary Immigration Security Act.

Senator Laird: Question, please?

The Chairman: All those in favour of the amendment as originally read into the record by Senator Smith? All those opposed?

I declare the amendment defeated.

Senator Macnaughton: Do we vote on the bill now?

The Chairman: Will someone move that we report the bill?

Shall I report the bill back to the Senate without amendment?

Senator Grosart: Take it clause by clause.

The Chairman: Shall clause 1 carry?

Hon. Senators: Carried.

The Chairman: Shall clause 2 carry?

Hon. Senators: Carried.

The Chairman: Shall clause 3 carry?

Hon. Senators: Carried.

The Chairman: Shall clause 4 carry?

Hon. Senators: Carried.

The Chairman: Shall the title carry?

Hon. Senators: Carried.

The Chairman: Shall the bill carry without amendment?

Senator Grosart: Carried on division.

The Chairman: Shall I report the bill without amendment?

Hon. Senators: Agreed.

The Chairman: There are two other minor matters, honourable senators, that we should deal with before we thank the minister for attending. One is that we have a standing motion for printing a fairly large number of copies of the record because of our study of Canada-U.S. relations. The staff has recommended to me that 800 copies in English and 300 copies in French of the proceedings of this session be printed, and this would probably be sufficient as we would not be sending them to our mailing list.

Hon. Senators: Agreed.

The Chairman: I would ask for a motion that we adjourn for five minutes and reconvene to discuss our continuing program re our study of Canada-U.S. relations which has been somewhat interrupted in the last two meetings that we have had. That meeting will be *in camera*. We will now adjourn for five minutes.

The committee adjourned.

APPENDIX "A"

March 8, 1976

The Honourable Robert Andras

Minister of Manpower and Immigration

House of Commons

Ottawa, Ontario

Honourable Sir:

Re: The Temporary Immigration Security Act

We must vehemently protest the recent passing of the Temporary Immigration Security Act, both on the grounds of the method by which it was passed and its content.

With regard to the latter, while we recognize the legitimate concern of your government to avoid a repeat of the terrorist activities of the Munich Olympics, measures such as those contained in the Temporary Immigration Security Act we submit represent an overreaction to the problem which is unnecessary and unacceptable.

It is unnecessary because under the present Immigration Act provision is made for the deportation of subversives in Section 5 (l), (m), (n), of the above-named Act. These sections provide broad grounds for deportation of anyone seeking to enter the country about whom "there are reasonable grounds for believing they are likely to engage in, or advocate subversion by force or other means of democratic government, institutions, or processes, as they are understood in Canada" (Section 5(n)); or about whom "there are reasonable grounds for believing they are likely to engage in espionage, sabotage or any other subversive activity directed against Canada or detrimental to the security of Canada" (Section 5(n)) or members of organizations concerning which there are reasonable grounds for believing it promotes or advocates . . . subversion by force or other means of democratic government, institutions or processes as they are understood in Canada." We submit any one of these sections would be sufficient grounds to make a deportation order against a person believed entering the country to engage in terrorist activities during the Olympics. Such a person entering the country can be detained in a jail or other detention centre by Section 16 or 17 of the Immigration Act pending inquiry. It would appear that the sole effect of Bill C-85 is to circumvent the special inquiry and a necessity for your department indicating the grounds for deportation. As a special inquiry is not a criminal proceeding the standard of proof is not that of beyond a reasonable doubt. Thus your department under the present Immigration Act would not be required to do more than adduce some evidence to support your reasonable belief that the detained person is likely to engage in subversive activities. We submit that if your department is unable to meet the extremely low standard of proof required by these sections a deportation order should not be made.

In any event, in practical terms Bill C-85 will not prevent serious terrorists from entering Canada if they have not already done so. "Known" terrorists are aware they are "known" and are therefore unlikely to be detected on arrival in Canada. Those who will find themselves arbitrarily deported without a hearing and without reason are those who carry the same name or resemble the so-called "known" terrorists.

In effect then, Bill C-85 represents a serious extension of ministerial discretion for minimal gain, contrary to the impression given the House of Commons on February 26th, 1976. This extension of ministerial discretion is not acceptable.

We are concerned as well by the misleading information given to the members of the House of Commons by you, reported on page 11286 of Hansard for Thursday, February 26th, 1976. You suggest that there is an implied requirement for the Minister to act in a responsible manner. Unfortunately, there is no such implied requirement sufficient to protect anyone unfairly deported under Bill C-85. Furthermore, you allude to the Canadian Bill of Rights as providing protection against arbitrary exercise of the powers granted by Bill C-85. In view of the recent decision of the Supreme Court of Canada in *Prata v M.M.I.*,[1] the Bill of Rights does not apply to immigrants or non-immigrants since immigration to Canada is deemed to be a privilege and not a right. While we disagree with this decision, until the Supreme Court of Canada can be persuaded otherwise, we are bound by it.

Thus, there is absolutely no protection from arbitrary or erroneous exercise of the power to deport provided for in Bill C-85. The seriousness of this problem is aggravated by Section 3 of The Temporary Security Immigration Act which provides for the provisions of the Immigration Act to apply mutatis mutandis. The seemingly innocuous section camouflages a serious consequence of the Act which was not brought to the attention of the members of the House of Commons. Section 67 of the Immigration Act allows the minister to authorize the Deputy Minister or Director to exercise any of his powers. By Section 2 of the Immigration Act "director" means the director of the Immigration Branch of the Department of Manpower and Immigration or a person authorized by the minister to act for the director. It has been our experience that the minister does delegate his powers and through a questionable practice of subdelegation special inquiry officers have exercised the minister's power under Section 25 of the Immigration Act to order a special inquiry. Thus we face the almost certain prospect of hundreds of special inquiry officers and possibly even examination officers having the power to deport persons seeking to enter Canada without an inquiry and without review. The prospect is frightening.

[1](1975) 52 D.L.R. (3d) (S.C.C.)

In the House of Commons you indicated you already had the power to deport without inquiry under Section 7(4) (5) of the Immigration Act. While this is a correct statement of the law it is a strange sort of logic that justifies a gross extension of the power to deport without hearing or reasonable grounds based on the fact that an extremely broad scope for ministerial discretion already exists. In addition , we suggest the use of ministerial power under Section 7(4), (5) of the Immigration Act against a person already in Canada is open to more public scrutiny and the safeguard this provides than the use of ministerial power against a person immediately upon arrival in Canada. Thus in practice the extent of ministerial power in Section 7(4), (5), is not paralleled by that contained in the Temporary Immigration Security Act.

Furthermore, we fail to understand the necessity for the Temporary Immigration Security Act remaining in force until December 31, 1976, four months after the conclusion of the Olympics. Considering the serious extension of ministerial discretion that the Temporary Immigration Security Act represents, if this Act is necessary at all, it should only remain in force until the end of the Olympics.

The justification given for the Temporary Immigration Security Act continuing in force four months after the Olympics, appears to suggest this temporary measure is to be incorporated into the new Immigration Act to be presented to Parliament by December 31, 1976. If this is correct and this measure is to become a permanent one, we strenuously object.

Considering the seriousness of the Temporary Immigration Security Act, the haste with which it was presented to and passed by Parliament is questionable. It seems to have been slipped in under cover of the public debate over the abolition of capital punishment and amendments to the Criminal Code. Debate seems to have been effectively curtailed be repeated references to this Act as an emergency measure designed to meet with the security problems created by the threat of terrorism at the Olympics. While we do not accept the necessity for the Temporary Immigration Security Act since it will not prevent terrorists from coming in by stealth and such persons can already be deported under the present Immigration Act, the amendment moved by Andrew Brewin would have provided a small safeguard as would a cut-off date immediately after the Olympics. In addition, there are many ways in which the problem could be met without so greatly extending the power of the MInister.

Governmental action during the imposition of the War Measures Act, including detention without charge or trial, is an indication of the possibilities of overreaction in the name of national security. We think it imperative that the Temporary Immigration Security Act be framed in such terms that there are adequate safeguards against any possibility of uncontrolled use of its powers in the name of national security.

The Temporary Immigration Security Act is a prescription for the untrammeled use of discretion. The gravity of the situation cannot be overly stressed. The matter must not be treated lightly by the Department of Manpower and Immigration or the Canadian public. We would condemn its passage by the House of Commons and urge that it not be made a permanent feature of the Immigration Act. At this point we can only hope that the Senate on consideration of the implications of the Temporary Immigration Security Act will refuse to pass it.

Yours truly,

Parkdale Community Legal Services

Laurence Kearley

CC The Honourable Mr. Croll, Senator
The Honourable Andrew Brewin, M.P.
The Honourable David MacDonald, M.P.
The Honourable Peter Stolley, M.P.
The Honourable Stanley Haidasz, M.P.
The Honourable A. Lambert, M.P.
The Honourable W. M. Benedickson, Senator
The Honourable J. P. Coté, Senator
The Honourable J. M. Godfrey, Senator
The Honourable M. Norrie, Senator
The Honourable J. D. Quart, Senator
The Honourable R. Stanbury, Senator
The Honourable P. Yuzyk, Senator
Mr. Allan Borovoy
The Toronto Star
The Toronto Globe and Mail

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1974-76

THE SENATE OF CANADA

PROCEEDINGS OF THE

STANDING SENATE COMMITTEE ON

FOREIGN AFFAIRS

The Honourable GEORGE C. van ROGGEN, *Chairman*

Issue No. 26

TUESDAY, MARCH 16, 1976

Twenty-fourth Proceedings Respecting:

"Canadian Relations with the United States"

(Witness: See Minutes of Proceedings)

21107—1

THE STANDING SENATE COMMITTEE
ON FOREIGN AFFAIRS

The Honourable George C. Van Roggen, *Chairman*

The Honourable Allister Grosart, *Deputy Chairman*

and

The Honourable Senators:

Barrow	Laird
Bélisle	Macnaughton
Cameron	McElman
Carter	McNamara
Connolly (*Ottawa West*)	Rowe
Croll	Smith (*Colchester*)
Hastings	Sparrow
Lafond	Yuzyk

Ex officio Members: Flynn and Perrault.

(Quorum 5)

Order of Reference

Extract from the Minutes of Proceedings of the Senate, Wednesday, November 6, 1974:

"Pursuant to the Order of the Day, the Senate resumed the debate on the motion of the Honourable Senator van Roggen, seconded by the Honourable Senator Riel:

That the Standing Senate Committee on Foreign Affairs be authorized to examine and report upon Canadian relations with the United States;

That the Committee be empowered to engage the services of such counsel and technical, clerical and other personnel as may be required for the purpose of the said examination, at such rates of remuneration and reimbursement as the Committee may determine, and to compensate witnesses by reimbursement of travelling and living expenses, if required, in such amount as the Committee may determine;

That the papers and evidence received and taken on the subject in the preceding session be referred to the Committee; and

That the Committee have power to sit during adjournments of the Senate.

After debate, and—
The question being put of the motion, it was—
Resolved in the affirmative."

Robert Fortier,
Clerk of the Senate.

Minutes of Proceedings

Tuesday, March 16, 1976
(32)

Pursuant to adjournment and notice, the Standing Senate Committee on Foreign Affairs met *in camera* at 2:38 p.m. this day.

Present: The Honourable Senators van Roggen (*Chairman*), Belisle, Carter, Connolly (*Ottawa-West*), Grosart, Lafond, Macnaughton, McElman, McNamara and Yuzyk. (10)

In attendance: Mrs. Carol Seaborn, Special Assistant to the Committee; Messrs. Robert Robichaud and Bill Neil, from the Library of Parliament, Research Assistants to the Committee.

Witness: Dr. E. P. Neufeld, Director, International Finance Division, Department of Finance.

The Committee continued its study of Canadian Relations with the United States.

Agreed—That portions of the proceedings of this *in camera* meeting be printed, subject to the approval of the witness concerned.

During his presentation, the witness referred to the following:

(*a*) Table showing "Balance of International Payments Summary (1950-1975)";

(*b*) Chart showing "Canada's balance on Current Account"; and

(*c*) Chart showing "The Canadian Dollar in United States Funds"

Agreed—That the above mentioned documents be included in these printed Proceedings.

At 5:04 p.m. the Committee adjourned to the call of the Chairman.

ATTEST:

E. W. Innes,
Clerk of the Committee.

The Standing Senate Committee on Foreign Affairs

Evidence

Ottawa, Tuesday, March 16, 1976

The Standing Senate Committee on Foreign Affairs met this day at 2.30 p.m. to examine Canadian relations with the United States.

Senator George van Roggen (*Chairman*) in the Chair.

The Chairman: Before proceeding to hear the witness, perhaps you would permit me to mention the witnesses we expect to hear in the next few days—that is to say, the remainder of this week and next week—keeping in mind that new arrangements in the setting up of a hoped-for block system within the Senate will mean that we will have to stay flexible and fit ourselves into that system when it is developed, which may be quite soon. Meanwhile, on Thursday of this week we expect to have Mr. Tom Burns on the subject of non-tariff barriers On Tuesday of next week we expect to have Mr. R. D. Brown, Senior Tax Partner, Price, Waterhouse, on comparative tax structures affecting industries in Canada and the United States and their effect on competitiveness. Then, on Thursday of next week, we hope to have Mr. Carl Beigie, of the C.D. Howe Research Institute, dealing with an overview of factors affecting Canadian competitiveness.

Today, honourable senators, we are very fortunate to have with us Dr. E. P. Neufeld, Director, International Finance Division, Department of Finance.

Senator Connolly: Mr. Chairman, may I ask a question at this stage? We had sone material delivered to us about a week ago dealing with the extent of U.S. defence contracts placed in Canada. Were we to have had a witness on that subject?

The Chairman: Yes, but, as you will recall, senator Connolly, we had to set those witnesses aside because of the immigration bill, so we will have to reschedule that. We expect the witness to be available again some time in April. At any rate, he certainly will be back.

Senator Grosart: Another question, Mr. Chairman. Why are we *in camera* for this meeting?

The Chairman: It was at the request of Dr. Neufeld, whom I am going to introduce. We stated last year, when we set up these meetings, that there would be two forms of *in camera* meeting. One type would be completely *in camera* and off the record; but this is the lesser form, in that we will be *in camera*, at the witness' request, but with a transcript being made to be published, subject to his review thereof.

Senator Grosart: And published?

The Chairman: Yes, published. It will form part of the proceedings of the metting.

Senator Grosart: I do not quite understand why it is *in camera*, then.

The Chairman: Possibly the witness, in his opening remarks, can explain that.

Senator Grosart: In saying that, let me make it clear that I am not being in any way critical. I am just wondering what use we could make of the evidence when we come to writing our report.

The Chairman: Well, Senator Grosart, as you will recall, we had two or three meetings *in camera* in the past, and in almost each instance the witness deleted or changed very little in the record. They might have changed the odd nuance, but that is all.

Senator Connolly: Who ultimately decides whether it will be published or not—the witness?

The Chairman: It has been agreed that the terms on which this witness is here is that we are *in camera*, that a record will be made, and that he will have the privilege of reviewing the record before it is published. I suppose he could say, if he wanted to, "I won't have any part of it," but that has not been our experience, and I can understand the witness' request on this. We could insist that the hearing not be *in camera*, but then we would have an unwilling witness, which would be rather counter-productive in the circumstances.

Dr. Neufeld is going to address himself today to the impact of exchange rates of the Canadian dollar on Canada—U.S. trade. He is the General Director, International Trade and Finance Branch, Department of Finance. The subject, of course, could range far beyond the subject of Canada's competitive position with the United States as far as trade is concerned, because there are other aspects to it, but we have asked him not to confine himself completely to that but simply to lend emphasis to that aspect of it.

Senator Macnaughton has kindly agreed to lead off the questioning following an opening statement from Dr. Neufeld. I might mention that there are some charts here which should be distributed to the members of the committee before we start.

Dr. E. P. Neufeld, General Director, International Trade and Finance Branch Department of Finance: Thank you, Mr. Chairman. It is an honour for me to be given the opportunity to assist you in your very valuable work.

I would like to explain why I had suggested that it might be more fruitful for our purposes to have this session *in camera*. I was asked to discuss matters relating to exchange rates. Such a discussion, when it involves officials, can be very sensitive with respect to its possible impact on markets. We have seen in the last while substantial disturbances in foreign exchange markets, and I fear that, if I had

always to be on guard with respect to the particular phrases I might use involving a discussion of exchange rates and exchange markets, this might lead my comments to be much less useful than they would be if I could speak fairly freely knowing that I would have an opportunity of looking at the record. I should like to emphasize that this arises essentially because of my concern that discussion of matters affecting exchange rates can sometimes cause difficulties in the market.

Mr. Chairman, honourable senators, the question of the impact of exchange rates on Canada—U.S. trade is one that has been of some continuing interest to this country. We have had a very varied experience with respect to our exchange rate behaviour over the decades. You will recall that until the war we had a floating rate and a par value of our dollar with the U.S. dollar was approximately the norm that we had expected. With the declaration of war we devalued to about 90.9 United States cents and this continued to be the case until just after the war in mid-1946. Back of that, of course, was a very complex wartime system of exchange controls and controls of exports and imports. Then in mid-1946, partly to protect ourselves from rapid inflation in the United States, the dollar was fixed at par, and it stayed there until September, 1949. The experience was a relatively stable one in that period with the exception of one exchange crisis which was, first of all, rooted in the fact that we were selling quite a lot of goods for which we were not getting convertible currencies.

However, after that the balance of payments strengthened so that in October, 1950, we faced for the first time in the post-war period the crucial issue as to whether we should adopt a floating exchange rate system or fix a new rate. I should explain here that a little earlier we had devalued to 90.9 U.S. cents., at the time when sterling was devalued.

The decision was taken in October 1950 to adopt a floating exchange rate and I think, in retrospect, it was taken essentially because it had become very difficult to know with any certainty what the appropriate exchange rate was. It was thought better to permit market forces to work themselves out so as to give a lead or an indication as to what the appropriate exchange rate might be. So the rate was floated. Within a year or two we developed very substantial strength in our exports and our balance of payments generally, which pushed the dollar up quite substantially. Then we continued with such a policy of floating until May 1962, when the dollar was again fixed, but this time at ninety two and a half cents. The background for moving back to a fixed rate is still fresh in the minds of most people. You will recall that there was a period during which we were experiencing some excess capacity; it was a period during which our interest rates relative to those in the United States had been quite high; it was a period during which unemployment was relatively high; and it was a period during which inflation was not a major problem. Yet, the dollar stood well above par. In those economic circumstances I believe it is fair to say that it became government policy to see a decline in the exchange rate. This was effected over a period of months, ending with, as it turned out, a rather sharp speculative attack on the Canadian dollar, which drove it down and it was finally fixed at ninety two and a half cents.

Senator Connolly: How long had it been floating before that date?

Dr. Neufeld: It had been floating since October 1950, when then the rate was fixed at ninety two and a half cents. During the period of the exchange crisis, that is when the speculators were moving against the dollar, Canada did receive some international support in order to restore confidence in the exchange rate. The final episode, the one we are in now, dates from approximately the end of May 1970. This was the period during which, for the second time in the post-war period, we went to a system of floating exchange rates. Here again was a backdrop of suddenly emerging strength in our balance of payments, which was revealed in our exports and our capital flows, and which made it increasingly difficult to hold the exchange rate fixed at ninety two and a half cents. The end result, again, was the decision to permit market forces to determine the rate and this, of course, is the current exchange rate arrangement in Canada.

I might add that during the last two or three years floating exchange rates have become the rule, rather than the exception, among the industrialized countries. You have undoubtedly read in the newspapers over the last few days accounts of the French again moving to a freely flowing system because of the emergence in the market of overwhelming forces which made it impossible to maintain a fixed rate.

Mr. Chairman, that is just by way of background. I might say a word with respect to the importance of exchange rates.

The Chairman: Could I interrupt you, as this may be of interest to others: With respect to the chart we are discussing, you mentioned that the rate was pegged in 1962.

Dr. Neufeld: Yes.

The Chairman: Could you tell us at what point it was pegged? In other words, was all that drop due to ordinary market forces?

Dr. Neufeld: Yes.

The Chairman: Was it pegged at the bottom of that drop?

Dr. Neufeld: Yes; if you look at the chart, you will see that the rate started to decline roughly in early 1960, continued to decline in 1961, and in 1962 market forces drove it right down to approximately the ninety two and a half cent level. It was when the market had driven the rate down that far that the decision was taken to peg the rate.

The Chairman: So it was not, then, devalued at that point?

Dr. Neufeld: No; it was fixed more or less where the market had pushed it, although at the time there was still some view in the market that it might go even lower than that.

The Chairman: That answers my question.

Senator Grosart: I have a supplementary, by way of clarification: Dr. Neufeld, you spoke of the 1970 end-of-May situation, at which time the strength of the balance of payments had changed the situation.

Dr. Neufeld: Yes.

Senator Grosart: Three factors were involved in that: export, trade and capital flows. What did you mean by trade in that context?

Dr. Neufeld: I should have said the trade balance generally. If you wish, exports, imports and capital flows. If you

look at the top chart, for example, you will see the trade balance which is, of course, the net between the exports and the imports and you will see how it strengthened in late 1969, continuing into 1970 and reaching an unusual situation for Canada of a surplus of current account.

The Chairman: Again for the record, may I correct you: you said trade balance, but I believe you meant current account.

Dr. Neufeld: Current account balance; that is right. This chart relates to the current account balance or trade in both goods and services and it is the net between our total exports and our total imports.

The Chairman: But not capital imports.

Senator Grosart: Yes, capital flow.

Dr. Neufeld: Well, the current account does include only goods and services. I might refer you to the table which I have distributed. If you look at the fourth column from the right, which is entitled "Net Long-term Capital", you can see that in 1969 there was quite an acceleration in the inflow of long-term capital. In the following year, 1970, if you look at the column to the left of that column, the "Balance on Current Account", you will see a remarkable turnaround from a deficit at just under $1 billion in 1969 to a surplus of just over $1 billion in 1970. So that was the nature of the strength that emerged in the balance of payments and which provided the upward pressure on the Canadian dollar.

The Chairman: Just two points before we proceed further: Firstly, honourable senators, I believe these two charts and the table should be included in the record.

Honourable Senators: Agreed.

BALANCE OF INTERNATIONAL PAYMENTS SUMMARY

1950 to 1975
(millions of dollars)

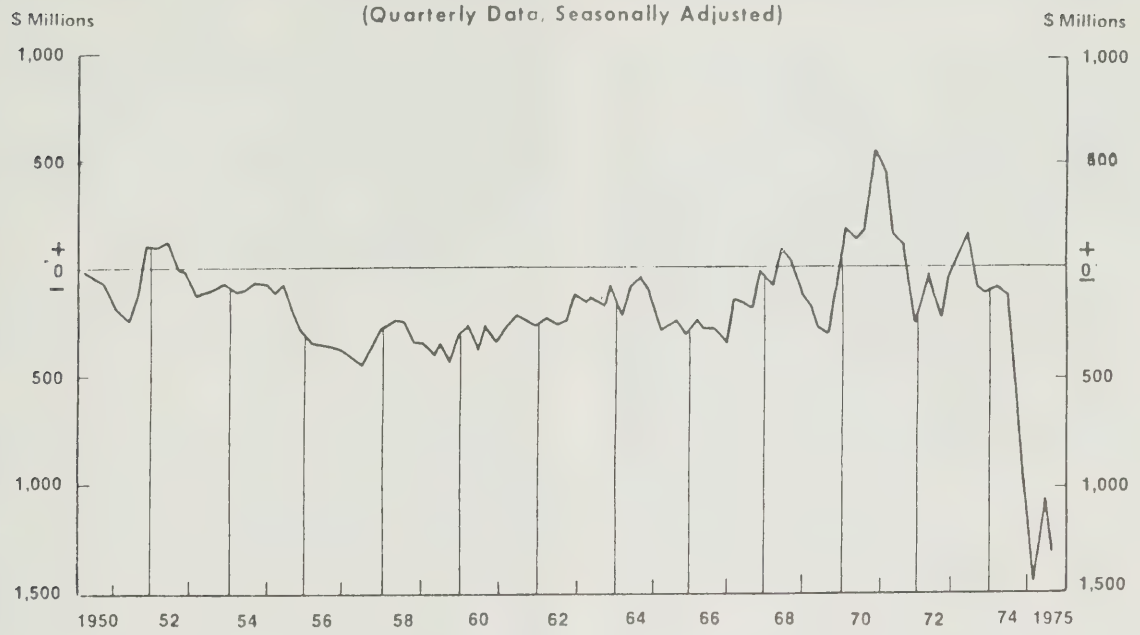
	Current Account								Capital Account				
	Merchandise Exports	Merchandise Imports	Trade Balance	Service Receipts	Service Payments	Service Balance	Net Transfers	Balance on Current Acct.	Net Long-Term Capital	Net Short-Term Capital	Balance on Capital Acct.	Change in Reserves	Canadian $[1] Exchange Rate
1950	3,139	3,132	7	1,019	1,360	-341	15	-319	610	431	1,041	722	0.9181
1951	3,950	4,101	-151	1,102	1,479	-377	16	-512	666	-98	568	56	0.9498
1952	4,339	3,854	485	1,217	1,516	-299	1	187	455	-605	-150	37	1.0216
1953	4,152	4,212	-60	1,216	1,594	-378	-10	-448	649	-239	410	-38	1.0169
1954	3,934	3,916	18	1,191	1,627	-436	-6	-424	599	-51	548	124	1.0276
1955	4,332	4,543	-211	1,405	1,847	-442	-34	-687	414	229	643	-44	1.0139
1956	4,837	5,565	-728	1,500	2,099	-599	-45	-1,372	1,490	-70	1,420	48	1.0162
1957	4,894	5,488	-594	1,472	2,278	-806	-51	-1,451	1,320	26	1,346	-105	1.0430
1958	4,890	5,066	-176	1,420	2,256	-836	-125	-1,137	1,153	93	1,246	109	1.0303
1959	5,151	5,572	-421	1,503	2,456	-953	-113	-1,487	1,179	297	1,476	-11	1.0438
1960	5,392	5,540	-148	1,590	2,549	-959	-126	-1,233	929	265	1,194	-39	1.0312
1961	5,889	5,716	173	1,735	2,764	-1,029	-72	-928	930	290	1,220	292	0.9870
1962	6,387	6,203	184	1,847	2,842	-995	-19	-830	688	296	984	154	0.9355
1963	7,082	6,579	503	1,986	2,982	-996	-28	-521	637	29	666	145	0.9272
1964	8,238	7,537	701	2,265	3,376	-1,111	-14	-424	750	38	788	364	0.9271
1965	8,745	8,627	118	2,437	3,714	-1,277	29	-1,130	833	455	1,288	158	0.9276
1966	10,326	10,102	224	2,719	4,157	-1,438	52	-1,162	1,228	-425	803	-358	0.9282
1967	11,338	10,772	566	3,325	4,462	-1,137	72	-499	1,415	-896	519	20	0.9270
1968	13,720	12,249	1,471	3,070	4,822	-1,752	184	-97	1,669	-1,223	446	349	0.9281
1969	15,035	14,071	964	3,695	5,719	-2,024	143	-917	2,337	-1,355	982	65	0.9287
1970	16,921	13,869	3,052	4,246	6,345	-2,099	153	1,106	752	-328	424	1,663	0.9579
1971	17,877	15,314	2,563	4,310	6,705	-2,395	274	442	482	-146	335	896	0.9903
1972	20,129	18,272	1,857	4,373	6,979	-2,605	278	-470	1,657	-966	690	336	1.0096
1973	25,445	22,725	2,720	5,239	8,278	-3,039	337	18	373	-858	-485	-466	0.9999
1974	32,383	30,864	1,519	6,105	9,811	-3,705	544	-1,643	1,036	631	1,667	24	1.0225
1975	33,106	33,901	-795	6,545	11,235	-4,690	411	-5,074	3,656	1,014	4,670	-404	0.9830

1 The U.S. dollar value of the Canadian dollar; average of noon rates

SOURCE: Quarterly Estimates of the Canadian Balance of International Payments
The Canadian Balance of International Payments: Annual 1972
The Bank of Canada Review

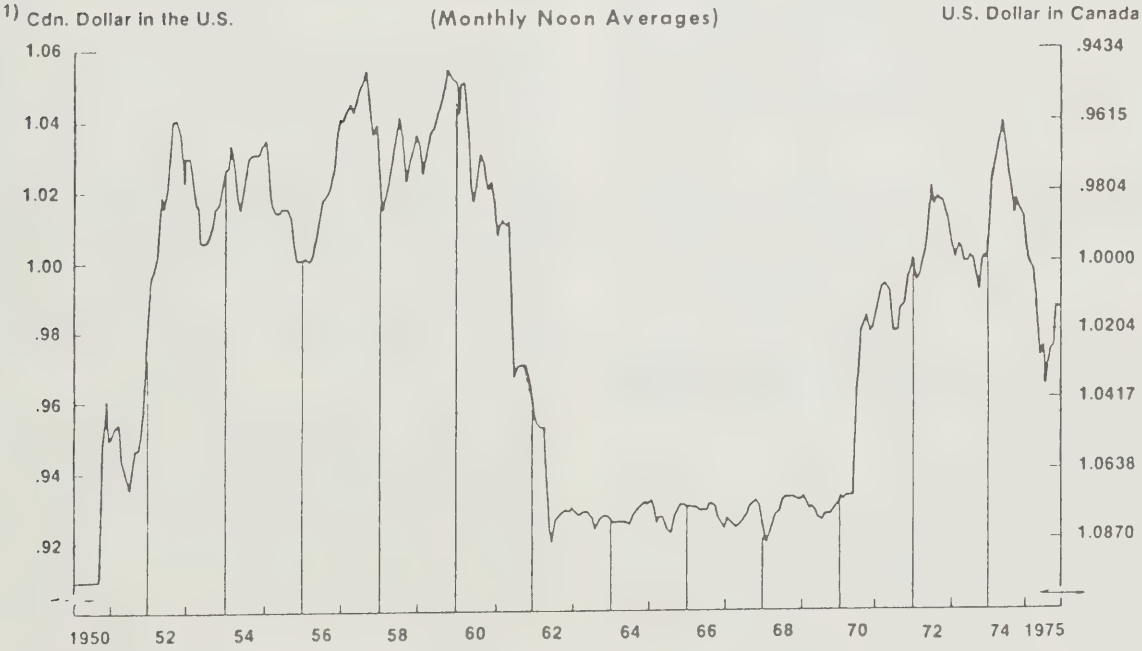
CANADA'S BALANCE ON CURRENT ACCOUNT

(Quarterly Data, Seasonally Adjusted)



THE CANADIAN DOLLAR IN UNITED STATES FUNDS

(Monthly Noon Averages)



(1) Inverse of quotations for U.S. Dollar in Canada.

The Chairman: I have one further point of clarification: The chart entitled "Canada's Balance on Current Account" includes all goods and services.

Dr. Neufeld: Yes.

The Chairman: But it does not include the capital inflow in 1969, for instance, of $2,337,000,000.

Dr. Neufeld: I should explain that. The nature of the balance of payments accounts is such that a deficit or surplus on current account has to always be, simply on bookkeeping grounds, equal to the surplus or deficit on capital account. That is, if we, for example, export more goods and services than we import, the balancing effect will be our export of capital to permit others to pay for the difference between our exports and our imports. Or if we are running a deficit of, for example, $1 billion on current account, this will show as a net inflow of $1 billion capital. There is only one exception to that generalization. That is, we could theoretically have financed the difference by running down our exchange reserves. However, with that one exception one could view this chart as properly reflecting the sort of change that was occurring in our balance of international payments, even though it portrays only the balance on current account. If we had the balance on capital account here, the line would look the same as the one on the chart, provided we had our exchange reserve changes included in our capital account.

Senator Carter: When you refer to capital account, do you also mean capital investment coming into the country? Is that included?

Dr. Neufeld: Yes, it is indeed, senator. Any inflow of capital would be included and indeed the spectrum of capital inflow coming into Canada is very broad. It extends all the way from trade credit extended, say, by foreign companies selling to Canadian companies, to investment on the part of foreign investors, in Canadian deposits, bonds, treasury bills, commercial paper, mortgages, equities, direct investment in real estate, in companies or new projects. It includes the whole range of capital inflows.

Senator Grosart: Just for clarification, I always thought there should be some kind of qualifier to the term "current account." They are all current. Why do we use this phrase "current account" for the one when the trade balance is a current account as well? Could you explain that? It has never quite clear to me why we should use that term.

Dr. Neufeld: Yes. I see nothing particularly useful or descriptive about the term "current account," and one might well have thought of a more descriptive title. It has become conventional over the decades to use it.

Senator Grosart: I know.

Dr. Neufeld: It really is the overall balance in our trade in goods and services including financial transfers.

Senator Grosart: That is right, yes.

Dr. Neufeld: When one uses the term "trade balance," one is really referring to exports and imports of goods, of merchandise. When one uses the term "service balance," one is really referring to all services like interest payments, dividend payments, tourist expenditures.

So the combination of the trade balance plus the service balance and financial transfers gives us the overall balance which, by convention, has come to be referred to as current account balance. I think I might add that the term "current account balance" is possibly also used to distinguish it from what has been called the "capital account balance."

Senator Grosart: That is on the other side.

Dr. Neufeld: Yes. The current account tells you how much net we have bought from other countries or how much net we have sold to other countries. The capital account tells us how we have paid for the net, if we have bought more than we have sold.

Senator Grosart: Yes, but we do not come up with the final figure. If this table was the other way up, what we would call the "bottom line," the relationship between the trade and service balance and the capital account balance would show up in the middle. We do not come up with the bottom line in this table. Is there a reason for that?

Dr. Neufeld: It is easy to come up with a bottom line. For example, the 1975 figure for the balance on current account shows a $5.74 billion deficit while the capital account surplus differs from that only by the $400 million decline in reserves which you see on the right-hand column.

So if you take the change in reserves plus net long-term capital plus short-term capital, you will get $5.74 billion. It is an accounting convention that must hold true at all times.

Perhaps I could say just a word about the significance of the exchange rate. When one thinks of the determinants of the exchange rate, one certainly cannot confine one's attention to the current account. One also to look at capital account. The exchange rate in the end is a price, determined by demand and supply as in any other market in the world where market forces are permitted to operate. The demand for Canadian dollars arises from other countries purchases of things we have for sale or export. The supply of dollars in that market arises from all the things we want to import from other countries. The demand for Canadian dollars also arises if other countries want to invest in Canada in whatever form; and supplies of Canadian dollars in that market arise if Canadians want to invest in other countries.

So really the exchange rate, if you wish, is the consequence of the working-out of all the market forces that are implied by the influences portrayed in the table. That is, goods and capital flows into and out of the country.

Senator Grosart: Would it be correct to say, then, that the current account balance will always be the sum of the figures on the right and on the left in that chart?

Dr. Neufeld: Yes.

Senator Grosart: So it is the bottom line and the middle line.

Dr. Neufeld: It is the bottom line. But as I have said before, one has to understand that one can finance a deficit also by running down exchange reserves, but that is also shown there.

The Chairman: That is shown. Just so I am quite sure I understand this, am I correct that if the reserves remain the same and the balance on current account is in deficit, we cover that deficit by importing capital, and the extent to which we do that on too consistent a basis is the extent to which we in a sense sell off a bit of the farm?

Dr. Neufeld: Well, . . .

The Chairman: Is that too strong a term?

Senator Grosart: It would not always be a sell-off.

Dr. Neufeld: I would agree precisely with the Chairman except for the latter part of the statement. For example, if we have a deficit on current account, meaning that we are importing more than we are exporting, we have to pay for it nonetheless. If we are not paying for it out of reserves, we have to borrow money abroad to pay for it. It is as simple as that. There may be good economic reasons for doing that. It may be that we are buying highly-productive capital equipment which will increase Canadian productivity so that the interest we have to pay, because we are using foreign money to buy this capital equipment, is not uneconomic in terms of the productivity that will arise from this foreign equipment. So I would not wish to imply that the process here is a bad one, least of all in the case of Canada because historically, going back a century, we have used a great deal of foreign capital and gradually I think we have used it quite productively.

The Chairman: I was deliberately being a little provocative with that remark, because I used it on a previous witness on approximately the same subject and he gave the same answer. So that validates it.

Senator Lafond: On a point of clarification, Mr. Chairman, the bottom line in the balance of payments for 1975, in columns 1, 2 and 3, shows exports of 33,106 and imports of 33,035, yet a trade balance of minus 795—expressed in millions of dollars. Is that a typographical error there?

Dr. Neufeld: Yes. Thank you for pointing that out. I would also, if you would permit me, wish to put in two figures that are missing from the table. They should be available any day, possibly even today. That would complete the table, and I would also make the correction that you have very rightly pointed to.

The Chairman: Senator Lafond, if you go up one line from your example and add $1.519 billion to the merchandise imports of 3,864 you come up with precisely 32,383, which is the left-hand column, so it must be a typographical mistake.

Senator Lafond: I thought so.

The Chairman: Undoubtedly we will have that corrected before publication.

Dr. Neufeld: I would certainly like to submit a final table, because the two missing figures in that table did not come to me on time.

The Chairman: We will leave it to the clerk of the committee to get in touch with you for that. Please continue with your presentation.

Dr. Neufeld: The importance of the exchange rate, as I have said, arises from the fact that it balances demand forces and supply forces in our economic relationships, financial and commercial, with other countries. If one raises questions of the appropriateness of a particular exchange rate, I think that it is always best to examine immediately the forces which are producing that exchange rate. It is quite difficult to change exchange rates unless one changes somehow or other the forces which are producing the current exchange rate.

I think one normally finds that if one argues that a certain exhange rate is inappropriate, what one is really saying is that one would like to see adjustments in the balance of payments of a kind which would lead to a different exchange rate.

Perhaps I could leave my general introductory remarks at this stage, Mr. Chairman, and I should certainly be pleased to respond to any questions that honourable senators might have.

The Chairman: Thank you, Dr. Neufeld. I now ask Senator Macnaughton to lead off the questioning.

Senator Macnaughton: Dr. Neufeld, we are very much indebted to you for your exposé so far, and I feel like a mouse in the presence of an elephant when it comes to economic experience and thinking. Earlier in your remarks you used the phrase "overwhelming forces in the market". What did you mean by that?

Dr. Neufeld: The experience of the post-war period, I think, has been that, particularly under fixed exchange rates, when forces develop in the market that suggest that the current rate is not an appropriate one, those forces frequently become almost overwhelming—indeed I would not even qualify it in that they have in fact on frequent occasions become overwhelming. We have had our own experiences to this effect. I mentioned the decline in the Canadian dollar prior to its being fixed in 1962. If you examine the published record of that period as to what happened to our exchange reserves in an attempt to soften the decline, you will find that those reserves declined very, very substantially. If you were to look at the increase in our exchange reserves that preceded the move toward floating rates, you will find also that those exchange reserves suddenly increased very, very rapidly as the attempt was made to maintain the fixed rate. As a final example, if you read the accounts of the last few days with respect to the kind of intervention that apparently was involved in trying to maintain the European snake arrangement, you will find that hundreds of millions of dollars were apparently, according to press reports, spent in order to try to maintain the existing pattern of exchange rates, only to end up finally on Monday morning with the floating of the French franc. So it is in that context that my own observations lead me to feel that suddenly overwhelming forces will emerge in markets under certain circumstances in order to bring about the exchange rate level that the market regards as being appropriate.

Senator Connolly: You say that suddenly hundreds of millions of dollars were spent to preserve a position. I take it that that was for the French franc. But who had to spend that money?

Dr. Neufeld: When a country has a fixed exchange rate, what this really implies, or what it means quite specifically, is that the government of that country accepts the obligation to intervene in the market in a way that will maintain the fixed exchange rate. So if you fix a price on the dollar, what that means is that you stand ready to buy Canadian dollars in the market and to sell foreign exchange if the dollar rate tends to weaken, and you stand ready to sell Canadian dollars and buy foreign exchange if the dollar tends to strengthen. And it is that commitment implied in fixed exchange rates that means that inevitably when there is weakness, a country will lose its exchange reserves, typically in the form of U.S. dollars because that is the most important international currency. That is apparently what happened, according to press reports, in Europe last week and led to some substantial declines in exchange reserves.

Senator Connolly: So that in that case France would have had to spend hundreds of millions of U.S. dollars to redeem money at that fixed rate? Is that right?

Dr. Neufeld: That always happens, and in this instance I can use the French case as an example. There were people who had French francs and who decided it was better to sell than to hold them, presumably because they feared that the French franc might be devalued. At the same time there was the obligation on the part of the French authorities, in their efforts to try to maintain the rate, to buy all those surplus francs in exchange for the currencies that the persons selling the francs wanted to hold, typically the U.S. dollar.

Senator Connolly: In that case they are redeeming French francs with American dollars?

Dr. Neufeld: Yes. It need not of course necessarily be American dollars. In Europe these days a very valued currency is the deutschmark, and also the Swiss franc. I suppose if one had the statistics, and I do not have them, one might find that when people were offering French francs in the market, they were asking in return deutschmarks, Swiss francs, U.S. dollars and possibly other currencies as well.

Senator Connolly: Well then, may I ask another question? The French government decides it is going to redeem these francs with United States dollars, but is it not the various commercial interests in France who own those U.S. dollars? How does the government get access to that volume of money? They are not in the export trade and they did not make the money from exports. Still it is available to them. I know this sounds like a very naïve kind of question, but it is one of the mysteries of international finance.

Dr. Neufeld: I think there are really two points that are relevant. The first is that each country has what is called its official reserves of foreign exchange. These are published. Canada has official reserves in the order of $5 billion in various forms of currency and France also has substantial official reserves as have Germany and Great Britain and other countries. So what they do immediately is to draw on the currency reserver they already own. For example, they have U.S. dollars which they can use to redeem francs if they wish just as, in the case of Canada, we have reserves of U.S. dollars which we could, if we so wished, use to buy excess offerings of Canadian dollars in foreign exchange markets.

The Chairman: Excuse me, just a moment. I understand Senator Connolly's question to be, who owns that $5 billion?

Dr. Neufeld: The taxpayers—the people of Canada. It is mostly in what is called the Exchange Fund Account which is controlled by the Government of Canada. The French Government owns the French reserves and other governments own reserves as well.

Senator Connolly: Are Canadian dollars used to buy that foreign exchange?

Dr. Neufeld: Do you mean how do governments obtain their reserves, senator? Usually, at least if you look back at the history of the accumulation of reserves, a country has accumulated reserves at a time when its currency has been strong and when it has offered its own currency in exchange for the reserves of other currencies.

Senator Connolly: That is what the Bank of Canada does, is it or would it be the Department of Finance?

Dr. Neufeld: I would be happy to discuss the arrangements in Canada.

Senator Connolly: Perhaps, Mr. Chairman, I am going too far out of the stream of thought which is being followed by Dr. Neufeld, and I will not pursue it. However, when we have an expert we usually do ask such questions.

Senator Macnaughton: Regarding these overwhelming forces, we are assuming an economic state in which people operate properly and nicely. Are you referring, in fact, to the speculative forces?

Dr. Neufeld: Reasons for disturbances in exchange markets which lead to basic questioning of the appropriateness of current exchange rates can become quite complex. However, one can say that when, for example, the inflation rate in a certain country begins persistently to exceed that of its trading partners, this will in time cause questions to be posed as to the appropriateness of that country's exchange rate, because their goods are becoming less competitive, foreign imports are becoming more competitive and the basic supply and demand forces, people begin to feel, will be upset and lead to downward pressure. It is at that point that speculative forces come in, Speculators are in business of making money and unless they get the basic trend right, they will not make money. Many speculators have lost money, but if they see certain factors in a given country's trading position, they begin to move against that currency and sell it. That in itself hurries along the adjustment process.

There is the question as to whether speculative forces could emerge when there is nothing wrong with a country's balance of payments position. I have heard it argued from time to time that substantial speculative forces could not emerge when there is no fundamental reason to doubt the appropriateness of the current exchange rate.

Senator Macnaughton: Well, doctor, right at this point, with the recently announced high interest rate within our country and the growing trade deficit, would you have any comment as to the use of exchange rate policies as levers, up or down, increasing trade or slowing it, or increasing competition with Canadian companies?

Dr. Neufeld: I think that the answer to such a question invovles answering the further question, as to whether there are basic forces at work which would suggest that

the current exchange rate is inappropriate. This is inherently a very difficult question to answer. One can say a few things; one can say that we have a free exchange market; we have no capital controls; we are major exporters and importers. The exchange rate in the market does reflect the forces that work in that market and one can look at other things, trends of our costs in relation to our exchange rate. One can look at the fact that some of our export markets, particularly the United States market, the European market and the Japanese market, happen to be very depressed because of their slow growth at this moment. One can say that when those markets improve, as they have started to do, our exports will pick up and our deficits will decline. One can examine all these factors and after that make a judgment as to whether the exchange rate at a particular point in time is appropriate. I would not wish myself to make that judgment today, that is to say whether I think it is or is not appropriate. I do think the exchange market is in many respects one of the best markets in terms of how efficiently it operates.

Senator Macnaughton: Yes, I realize I am asking you to comment on the Bank of Canada, which is not quite fair.

Mr. Chairman, I would like to pass at this stage. There are many things in my thinking about which I am sure information will be forthcoming during the discussion.

Senator Grosart: Mr. Chairman, we are mainly interested in the effect of a fluctuating exchange rate, given the fact that it is inevitable. Without for the time being concerning myself as to the causes, could I ask Dr. Neufeld if he would run down the effect of fluctuating exchange rates, given that they will happen, on such economic determinants as: imports, exports, social indicators, comparative domestic prices, labour costs, stock market values and so on? How do they affect them?

Dr. Neufeld: Could I just begin my response to your questions by making the point that if you look at the chart with respect to exchange rates, it does seem to indicate that once a basic level has been established, the degree of fluctuation with a floating exchange rate is not all that great. In other words, the market does provide a certain band within which the rate seems to move and, indeed, there are examples to suggest that the volatility of our rate during periods of floating exchange rate has been no greater than the volatility of the exchange rates of a number of other countries which have tried to maintain a fixed rate but which have had, because of market forces, to change those fixed rates from time to time. So it is not just a question of having a floating rate, but of how much in fact the rate moves in that system. It is in some respects remarkable that the rate under a floating system moves within as narrow a band as it does. Having said that, I would be happy to go on to the substance.

Senator Grosart: But in spite of that, 1960 was a very different year with respect to these factors than, for instance, 1966 or 1968. What does that do to us?

Dr. Neufeld: Whenever we have a move upward in an exchange rate, whether it be under a fixed or floating system, it has the effect of reducing our import prices and raising our export prices. If one thinks of the impact on inflation, one would say it would probably reduce inflation, for two reasons. First, the prices of imports are lower and, therefore, the costs are lower for those companies that use imported goods. Secondly, there are more goods available to Canadians to buy. Other things staying the same, which is never the case, it could reduce the rate of growth from what it would otherwise be, because Canadians would now be buying imported goods more than they were previously. So there is that general effect.

Senator Grosart: Excuse me. Has any kind of balance been established between the lower cost of imported goods in this situation and increased consumer spending?

Dr. Neufeld: Certainly many efforts have been made to determine how sensitive consumers are to those sorts of price changes. I cannot give you a competent answer; it is very difficult to measure. There is some sensitivity; it is very difficult to say, for example, that if you have a one per cent exchange rate consumer spending will be affected by such and such a deciimal percentage point.

Senator Grosart: It would depend on the price elasticity of all the products, would it not?

Dr. Neufeld: Precisely, and this varies from product to product. In some areas it might be quite sensitive; for example, in semi-luxury goods. In other areas it might not be so sensitive.

A question about floating exchange rates that is often asked, is whether there is greater uncertainty with floating exchange rates and therefore whether companies find it more difficult to engage in foreign trade under a floating system. Again, definitive answers are hard to come by, and all I can say is, I have the impression that Canadian businessmen have become relatively used to floating exchange rates. They know that market, they know how to use the forward market in order to cover their risks, they realize that instability normally stays within a certain band, and they have good realtionships with their bankers, who can give them good professional advice as to how best to make use of the foreign exchange operations. The general impression I have is that Canadian businessmen have got to know the system and operate reasonably well within it and do not overwhelmingly feel that their position would be substantially different if we had a fixed exchange rate. That is obviously a judgment on my part.

Senator Grosart: I know you are still answering the question, but could you venture a listing of the pros and cons of a high or a low Canadian dollar rate vis-à-vis the United States? Which of these items, for example, that I put in my first question, would be advantaged, and which would be disavantaged?

Dr. Neufeld: I want to be quite sure that I answer your question directly, and I think I am doing so by saying right away that I think the important thing for the country is not having a high rate or a low rate, but having the right rate. What does one mean by the right rate? I think one means a rate that provides us with a flow of exports and a flow of imports that will enable us to achieve the domestic economic objectives we are trying to achieve, including that of allocating our resources to the best advantage, and making the best division of our resources between purely domestic industries and export industries.

Speaking only by way of example, if one were to argue that the rate is too high, one would immediately have to say, why is it too high? What is happening in the economy that would improve if it were lower?

Here you would have to make a very careful examination of the forces that are producing the rate that we have. The rate is high partly because of capital inflows, partly

because of the level of our exports. So I think, senator, that we end up where we began, in the sense that we need an exchange rate that would create a balance in our international trading relationships. If one is unhappy with a particular rate, one has to identify where there is a poor balance.

Senator Grosart: That is really the point of my question. I am saying, what are the balancing factors? Let us say there is a premium rate for the Canadian dollar. We know whether it is good for imports or exports. Is it good for investment flows in the Canadian economy? Is it good for the Canadian consumer? What about labour costs? What is the effect of the exchange rate on each one of these? This is the only way in which we ourselves, studying Canada-U.S. trade, as we are, can say what is the effect of exchange rates on each of these elements. We are not going to be able to give an integral value to each one but we should, I think, be able to ask you, if you could give it to us, what is the effect on each one of these factors. What is its effect on domestic prices, for example? What is its effect on labour costs? I am not talking about the fact of fluctuation, I simply want to find out whether it is a good thing in relation to Canada-U.S. relations to have the dollar at a deficit or a premium in these circumstances?

Dr. Neufeld: I think you are right in saying that it is not a question of floating. You are really addressing yourself to the question of the level of the rate, whether floating or fixed.

I would answer your question, again, by saying that what we need to seek is an exchange rate that will lead to the kinds of domestic objectives that we regard as desirable. We want to have an economy where we allocate our resources well in terms of directing them to more productive uses. We want to have an exchange rate that will provide us with the sort of current account position that we think suits our stage of economic development, and that will bring in the needed capital.

I think, therefore, that looking at one's objectives from that point of view, it is fair to say that an exchange rate that, within the context of those objectives, is not an appropriate exchange rate, would hurt the country as a whole. An exchange rate that is too high, I would argue, will hurt the country on a whole. An exchange rate that is too low will do likewise.

I do not think it is a question of hurting particular sectors. It does not help the country if we have an exchange rate, for example, that is too high, and that therefore leads to a massive surplus on our trade account, which has to be offset by massive export of Canadian capital when, at our stage of development, we can use that capital. I therefore do not think that anyone, either the Canadian consumer or the Canadian businessman or the Canadian government, would be helped, basically, by a policy of that kind. If the exchange rate were too low, resulting in more imports and a widening current account deficit, and more need to borrow capital abroad to pay for goods which are coming in not because they are productive in Canada, but merely for consumer purchases because they are cheaper, it would not be helpful to the country, as far as I can see.

Senator Grosart: What about exports?

Dr. Neufeld: Well, why would we wish to have exports for the sake of exports? I do not think we would. We wish to have exports because, having in mind the price we can get for them, some of our resources, certainly not all of them, are more productive in the export sectors; but we do not wish to have exports to the extent that this would mean directing resources to the export sectors that would in fact be less productive there than they would be in the domestic industries. I do not think one would begin by saying that any increase in exports is good, just as one would not argue that any decrease in imports is good.

Senator Carter: When you are talking about whether exports are good in Canada, where we have high unemployment, and where we depend on jobs for exports, you do not have much choice, do you? We have to increase our exports.

Dr. Neufeld: I think there is another element in this question of whether the balance of payments situation is good or bad, and whether the rate is right or wrong, and that is the time factor. I think it is clearly the case at present that Canadian exports have suffered from the deep recession in the United States, in Europe and in Japan. In the United States they have had their deepest recession since the 1930s.

Senator Grosart: You mean in volume.

Dr. Neufeld: Yes. It has been the deepest decline in volume since the 1930s. As a consequence, our exports have been hurt, but we now see signs that the economy of the United States is improving, that it has started coming off the bottom. This holds out prospects of better exports for Canada down the road, so that one can say that an exchange rate has to take into account not just what is happening today, but also what the prospects are for development over the foreseeable future. It is true, obviously, that current economic circumstances in Canada, including inflation rates and unemployment rates, and so on, must be taken into account, but we must also take a view as to how things are going to develop over the medium term period before coming to an opinion as to whether this or that kind of policy, or this or that kind of price—whether we are speaking of the exchange rate or something else—is or is not appropriate.

Senator Grosart: This will be my last question. I am still pursuing the last point.

Let us say the political decision-maker says, "I think I know what the right rate is for now and for next year." What assessment factors has he put into that decision? Why does he say, "That is the right rate," and whether it should be at par, or it should be at premium, or it should be two points down? What are the factors that determine that political decision, which is really the whole game? Whether we float or fix, we must have a certain "right" rate. It must be there. How do we know what it is, and what assessment factors do we put into that political decision? Let us keep it to Canada-U.S. trade, because that is what we are discussing.

Dr. Neufeld: The principle is really the same in all our trade, and I think an appropriate response to your question would have two parts.

The first part of such a response would be that the forces acting on the exchange rate are often so complex that it would take great courage for any individual to say that in fact he knows what the right rate is. I think if we look back to the period when we returned to floating, my personal judgment would be that one of the strongest reasons for saying that we had to float was that we did not

know what the right rate was, and we had to let the market forces guide us along.

The second part of my answer relates to what we would examine, if we had the information, to determine whether the rate would be that if we could know ahead of time, and if is appropriate. We would look at things like our relative competitiveness in goods that are being traded internationally. We would look at what is happening to our costs. We would look at what is happening to our productivity. We would look at what is happening to foreign tastes for goods. We would have to decide whether that taste was shifting towards or away from the kind of things we can supply. We would have to look at the state of competitiveness in industry in other countries as compared with industries in Canada that could supply the same goods. We would have to decide what the long term attractiveness for capital in Canada would be. We would have to decide whether foreign capital could be put to productive use in Canada, or not. I think, if I were asked by someone to form a judgment, these are the sorts of things that I would look at. Hopefully I would have some statistical material to help me, but in the real world you can only go so far along these lines, and in the end you have to make a judgment.

Senator Grosart: Would part of the equation be the relationship between per capita income and cost of living, country to country? I say that because we have evidence that in recent years our per capita income is going down, comparatively, and probably our cost of living is going up.

Dr. Neufeld: Relatively speaking, I would say both those factors would be important. When you say "per capita income" you are referring to what is happening to productivity. When you say "cost of living" you are referring to what is happening to costs. In my opinion, productivity and cost of living are both important factors, that would have to be taken into account.

Senator Carter: Coming back to what Dr. Neufeld said earlier, there is no virtue in a high rate and no virtue in a low rate. We try to get the rate which is best suited to the circumstances prevailing at any particular time, having regard to the prospects over a period of years in the future. What does Dr. Neufeld think about our present rate? Does he think our present rate is about right?

Dr. Neufeld: Senator, if you will forgive me, I really could not proceed along that line. As I explained at the start, it is not always, but it can be a very sensitive matter. I could say that I do think that the exchange markets both in Canada and in the large international centres tend to be quite efficient markets and they often do quite properly reflect the real forces that are at work. I do not really start from the assumption that exchange rates which have been established by markets are not good exchange rates. Possibly I should leave my response there.

Senator Carter: Can you tell us what is keeping our rate up so high at the present time? What factors are keeping it up?

Dr. Neufeld: I think we have gone through a period when we have seen a fairly substantial capital inflow, and the accounts identify the nature of this capital inflow. The most important element has been the borrowing abroad on the part of the provinces and their agencies. They have had very large financial requirements. They have felt, I think, that they could not satisfy all those requirements at reasonable cost in the Canadian market. They have therefore gone abroad to find the balance of their requirements. In the last year this has been an important element. Indeed, we have gone through a period when our balance on current account has been widening. Our deficit has widened while at the same time our capital inflow has been fully sufficient to meet the financing requirement represented by the deficit, and, indeed, to go so far as to keep the dollar fairly firm. It is, of course, the case that the dollar is not very far from par. At one time I examined the historical experience of the Canadian dollar and found that over the last 100 years or so the Canadian dollar was one that was fairly close to par with the U.S. dollar. Within the context, the historical context, one does not regard the current rate as being unusual.

Senator Carter: The Bank of Canada has increased interest rates again. That, in turn, will have an impact on the exchange rate, will it not, and tend to push it still higher?

Dr. Neufeld: Again one has to recognize that at any point in time there is a wide variety of forces leading to a particular exchange rate. My observations have led me to believe, for example, that in terms of those factors which determine longterm borrowing abroad on the part of Canadian borrowers the two things which stand out are, first, not the level of interest rate but the gap in interest rate between Canada and the other countries; and, second, the sheer volume of financial needs of the Canadian borrowers. In any period when the volume of requirements is rising and the interest gap is rising; one would naturally expect to see increased foreign borrowing.

The question really is whether foreign interest rates will behave the same as Canadian interest rates, leaving the gap more or less unchanged; or whether something else will happen. This will depend not only on what is done in Canada but also on what happens to interest rates in other countries, including particularly the United States.

Senator Carter: You said earlier that one of the factors keeping our interest rates up at par with the United States is the capital inflow.

Dr. Neufeld: Yes.

Senator Carter: If you raise interest rates you are going to encourage capital inflows, are you not?

Dr. Neufeld: Again, if one were to add the economic rider: "Other things being equal." The thing is that other things are almost never equal. For example, I could hypothetically see a period when the particular element you have referred to might be at work, but where others might be moving in the other direction. In other words, we might find, for example, and I am speaking hypothetically, that the provinces have, for a while, satisfied many of their borrowing requirements so that in spite of the interest rate gap they might not need funds for a while. Therefore, you might have a decline in borrowing even though the interest rate gap might be such as to lead you to think there should be more borrowing.

Senator Carter: Coming to the balance of payments deficit, with affects the rates, too, is there in terms of the percentage of GNP a danger point or cut-off point below which you cannot go or which you have to maintain?

Dr. Neufeld: That is an interesting point. When we try to put developments in historical perspective, one of the things we do is look at the size of the deficit as a proportion of the GNP. I do not think there is a fixed rule as to what is a normal proportion, but it is a useful thing to look

at because if that ratio gets very large, you start to ask yourself, "Well, are things not becoming a bit abnormal? Should we not look very carefully to see if there are abnormal factors at work?" It really helps one that way, and not in the sense of saying, "The rule is that this is clearly a good ratio and that is a bad ratio."

Well, we have done that and it does suggest that the ratio of the deficit in this most recent period to GNP is still quite a bit lower than it was in the fifties, for example. Therefore, one can interpret that as one wishes, but at least one can say that the ratio of the deficit to GNP is not historically unique.

Senator Grosart: Do you have the comparative percentages between, say, the largest deficit in the fifties and today?

Dr. Neufeld: All I have in front of me is a chart, senator, and charts are always most difficult to read. That is a statistic which I could certainly provide, if you wish.

Senator Grosart: Just roughtly.

Dr. Neufeld: I think that roughly it had got to about 4 per cent of the GNP in the middle and late fifties and that in 1975 it was about 3 per cent. But I would caution that these are very rough figures.

The Chairman: I suppose the same percentages relative to trade as opposed to GNP would be interesting as well.

Dr. Neufeld: Yes. I think the answer would be roughly the same, because the proportion of our trade to GNP has been relatively stable. There woud be some differences, but not a fundamental difference.

The Chairman: I say that, Senator Grosart, because without the figures you have asked the witness for you could see the deficit on current account in 1956, for instance, is over 25 per cent of our exports.

Senator Grosart: Yes.

The Chairman: Whereas even the very large deficit of last year is only less than 15 per cent.

Senator Grosart: Yes, it would be well over 10 per cent.

The Chairman: Yes. It is less than it was in 1956.

Senator Macnaughton: Mr. Chairman, if I may ask a supplementary which I think is on the point, in the notes I have here it says:

> . . . it is difficult to see any evident relationship in the present high rate of the Canadian dollar $1.01 U.S. in February and Canada's large 1975 balance of payments deficit. Nor is the outlook particularly bright. Arthur Smith has recently stated that Canada is on "a longer-run slippery slope towards a fundamentally deteriorating international position with no upturn in sight".

Would you care to comment on that?

Dr. Neufeld: I do not think I would care to comment on Mr. Smith's appraisal of the situation, and I do not think I would really wish to begin to move into the area of forecasts. I say that because I think he is implicitly making a kind of forecast. My own feeling is that with the recovery of the United States economy and the economies of Japan and Europe, this will have a useful effect on us. All I would say is that I myself do not see the situation the way it is portrayed there, but then I am not quite sure of the basis for his view.

Senator Carter: While I am on the "danger point" business, I might as well follow that question with another. You referred to press reports about France spending reserves to lessen the impact on the franc and to keep it up to a certain level. Is there a danger point beyond which you must not let your reserves go; and, if so, how is that determined?

Dr. Neufeld: I think that on the upside it is when your reserves are rising because your currency is strong and you have to buy foreign exchange and supply your own currency to the market to keep the rate down. I think the upward limit is the one that is posed by the fact that you have finally to recognize that keeping the country's assets in foreign exchange reserves is not a very productive way to use those assets. If you have this money lying in a bank account, you will get some interest on it, that is true, but your option is to use it to buy real resources, from which the economy will get some benefit. So I think that if you get to a point where your reserves are really in excess of what you might need to iron out short-term movements in the marketplace, then you would ask yourself why you would want to hold more reserves than you need, having in mind, as I say, that it is not a very productive way for a country to hold its assets.

Senator Carter: And then when you are selling your reserves to protect your currency, is there a danger point on the other level?

Dr. Neufeld: Yes, indeed there is. The danger point is zero. When you get to the point where you have no reserves left, then it is the end of your policy because when you can no longer intervene to hold a rate, then the rate will move.

Senator Carter: But they never go to that; they always stop somewhere; so where is the stopping point?

Dr. Neufeld: Well, I think the stopping point is as near to zero as you think you can get. Often what happens is that as you get pressure, you try to augment your reserves by borrowing and utilizing credit facilities available such as the International Monetary Fund or swap arrangements between industrial countries' central banks. This means that there are ways of augmenting your reserves to give you more breathing time to put in place more fundamental economic policies to put your house in order. There have been cases where if you took the borrowed money figure and netted that against the reserves held, the net reserve holdings would actually be negative. But I think that normally when reserves are falling very sharply it would not be practicable to continue on a certain line of policy right to the point where they fall to zero.

Senator Carter: When a country starts spending money to protect its currency or the rate of exchange and finally has to give in, has that money not been wasted? It seems to me that they might as well have devalued right away, at the beginning.

Dr. Neufeld: I think that in most cases I would agree with what you have said, that is that the money is wasted, in an economic sense. That is to say if the rate is truly an inappropriate rate, if it is a rate that is not bringing about the real economic adjustments that have to be brought about, then it is wasted money, because you are using the money to protect a situation that is not a good one.

The Chairman: If I may ask a supplementary to Senator Carter's question, you are talking about coming down to zero. Why would any nation not start reducing their rate before it started getting so critical that they had to go to the World Bank? What reasons are there for not reducing the rate, other than political reasons?

Dr. Neufeld: I think there is always an element of judgment, because you cannot always be quite sure when the pressure will ease up. If, for example, the authorities felt that the current rate in their best judgment was not that far out of line, then they might say, "Well, if we continue to protect the rate it will gradually dawn on the market that it is a good rate and therefore the pressure will ease off," and they will have protected the rate. So you can say that to the extent that authorities have an economic judgment of that kind, they might be prepared to see the reserves go quite low. Now whether that is good or bad hinges on whether their judgment is good or bad. If it is bad, then it is clearly not a good policy even though the intentions are very good. On the political side, I would not want to say very much because it is certainly not an area where I would regard myself as being an expert. In countries that have been accustomed to fixed rates, it does often cause political concern to change the rate. Sometimes it appears there is a reluctance to change a rate when the rate has been fixed, because of the public concern and the political concern that might follow from a change.

Senator Carter: But does not the IMF compel those people who are governed by the IMF by regulations to protect that currency, whether the money is wasted or not?

Dr. Neufeld: I think that was on occasions a good description of the situation until the currency crisis of 1971. Now Canada, by the way, as I already have explained, decided on two occasions to float, and it was true that this was in contravention of the literal reading of the articles of agreement of the International Monetary Fund. My own judgment would be that Canada had no choice because the arrangements under the articles were not realistic in the case of Canada, which was subject from time to time to very substantial inflows and outflows of capital.

Be that as it may, in 1971, when the U.S. dollar ceased to be convertible, we saw the gradual emergence of generally floating exchange rates and the gradual emergence of a situation in which no one to speak of was behaving according to the articles of the International Monetary Fund. We have just gone through a very intensive period of international negotiation to endeavour to build a new international exchange rate arrangement. Agreements were reached in the IMF Interim committee meetings in Kingston, Jamaica last January for new exchange rate arrangements. These are now in the process of being written into new IMF articles. This amendment to the IMF articles will soon be submitted to all the member governments of the IMF, including Canada, and they will have to be approved by parliaments, including the Parliament of Canada.

Senator McElman: Does the IMF include OPEC?

Dr. Neufeld: Yes.

Senator McElman: Are they now prepared to abide by these agreements?

Dr. Neufeld: The OPEC members are members of the IMF and, through their representatives on the iterim committee, have agreed to the amendments, along with all the other 128 members of the IMF. I assume that because both in the interim committee and in the executive board, where they are directly or indirectly represented, they have agreed to the lines of these amendments, they have every intention to honour the agreed position. I have no reason to think otherwise.

Senator McElman: If they did not, of course, it is so much paper.

Dr. Neufeld: I do not think that has been the tradition, really. The members of the IMF have placed great importance on abiding, generally speaking, by the spirit of the IMF articles.

Senator McElman: I am thinking of what happened three and a half years ago, when the money that supported the attack upon the western currencies was almost totally OPEC money.

Dr. Neufeld: That opens up quite a new field, the question of the behaviour of OPEC money in the international financial markets. My own observation on that phenomenon, which has been a very interesting one, would not lead me to that conclusion. It would lead me, really, to quite the opposite conclusion, which is that those investors are very much concerned with the safety and security of their investments. They realize that behaviour in international markets which would tend to disturb rather than stabilize markets would not be in their own interests.

Senator Grosart: Mr. Chairman, to return to Canada-U.S. relations, could I ask Dr. Neufeld if there is any difference in the effect of fluctuating exchange rates in Canada-U.S. trade as compared to Canada and other world trade?

Dr. Neufeld: I do not believe there is any difference, because of the fact that the same Canadian exporters operate in all the markets and they are experienced in a variety of exchange rate arrangements in foreign countries. I might add, under present circumstances they are really no differenct between Canada and the United States than they are between Canada and other countries. They are basically the same because the Canadian dollar is floating against all currencies.

Senator Grosart: But what about the very high level of Canadian dependency upon the U.S. market? Would that not make fluctuating exchange rates have more effect in Canada-U.S. trade than in other trade?

Dr. Neufeld: If one felt that there were undesirable consequences flowing from floating, I think that those undesirable consequences quantitatively would certainly, as you suggest, be greater in our relations with the United States than with other countries. At the same time, it is the case that our currency, the Canadian dollar, fluctuates much less relative to the U.S. dollar than it does to the other currencies. There is such a close relationship between our two economies at every level, the capital flow level, the trade level, imports and exports and even in terms of basic economic conditions, the stage of the business cycles, for example, that the end result is that the Canadian dollar and the U.S. dollar are remarkably stable one with another. It is certainly a more stable relationship than that between the Canadian dollar and the European currencies.

Senator Grosart: Would you say that this is an advantage, a plus, in terms of Canada-U.S. trade, that the fluc-

tuation is less? Is this something we can say is a plus in our trade relationship with the United States?

Dr. Neufeld: I suspect that it might on balance be a plus, but I would not really press it very far, because, as I say, in my opinion it is a question of whether businessmen have fully got on top of the exchange rate situation. If they have, it might not worry them all that much that there is more fluctuation between the Canadian dollar, say, and the French franc than there is between the Canadian dollar and the U.S. dollar. I should say though, quite honestly, that businessmen would have a better judgment on this than I.

Senator Grosart: I am trying to get you to say whether a fluctuating exchange rate is a good thing, or a bad thing for Canada. I know that you are avoiding the answer because it is maybe in that well-known class of a damn-fool question and might, therefore, draw a damn-fool answer.

The Chairman: It is not a damn fool question; perhaps it is too political a question.

Dr. Neufeld: I am quite happy to say, senator, that in my judgment because of the forces presently operating in international markets, the forces operating in trade, in exports and imports and capital flows, the differences in inflation rates and rates of growth between countries, the political instability, the uncertainty over the energy issue, because of all those factors I would say that under present circumstances a floating exchange rate system works better than a fixed exchange rate system.

Senator Grosart: But a floating exchange rate is not quite the same as a fluctuating exchange rate. It will fluctuate, of course, under floating and even under a fixed rate there will be fluctuations if there is a political decision to change the fix.

Dr. Neufeld: Yes; one could compare it to a system without margins and a system with margins. My judgment would be that a system without margins in present circumstances is better than a system with margins. Now, every statement one makes must be qualified and there are countries for which this would not hold. Sometimes in cases where two countries are very closely tied, particularly if one is a very, very small country and the other large, the best arrangement is one where the small country ties its rate to the large country. However, that is by way of the exception. I am really making a judgment on the system in the major industrialized countries under present circumstances and, particularly, the situation in which Canada finds itself.

Senator Grosart: With respect to the effect on the exchange rate of capital flows, are there fundamental differences in the effect on the exchange rate of different types, such as investment, trade credits, deposits with banks, commercial paper, mortgages, equities and so on?

Dr. Neufeld: I do not believe there are fundamental differences. It is the case that short-term, highly liquid investments can be withdrawn more easily than long-term investments, normally. However, when the money comes in, a dollar is a dollar, or whatever, and all will have the same effect on the exchange rate. Looking at it from that narrow point of view, I do not believe there is a basic difference.

Senator Grosart: What I am worrying about is the difference between capital inflow for equity investment, and other purposes—for example, bonds as against stock acquisition. Does this affect the exchange rate?

Dr. Neufeld: As far as the impact on the exchange rate is concerned, the effect is the same. The effect on the economy might be different.

Senator Macnaughton: Mr. Chairman, I am not sure that this is an intelligent question, but there is a great deal of concern in the country about inflation, wages, strikes, unemployment, and so on, and yet the Canadian dollar is at $1.01 via-à-vis the United States dollar. Also, with regard to investment rates, in the United States, on a 30-day investment you get 4¾ per cent, whereas in Canada, yesterday, for example, you could get 9 ¼ per cent. Does the rate indicate anything? Does it indicate concern about the economic state of this country?

Dr. Neufeld: I think the question that you are posing is, what determines interest rates? Again, unfortunately, the answer is one with a number of elements. I think it is the case that interest rates are affected by, for example, the productivity of capital, if one wants to get down to the basics of it. I think that they are also influenced by rates of inflation. They are also influenced in the short run by ease or restraint in the monetary policy area. They are influenced by the sheer volume of total borrowing, regardless of the purpose of the borrowing. They are influenced by the savings rate. The higher the savings rate, the lower the interest rate, other things being equal.

I think we have all these forces, same permanent, same temporary, working to produce, finally, a certain interest rate level. I think it is the case that one would expect, again, other things being equal, a lower rate of interest if there were a move towards a lower rate of inflation.

Senator Grosart: May I ask a supplementary there, Mr. Chairman?

Dr. Neufeld, would you say that the statutory terms of taking interest income into corporate or personal income in another country have a significant effect here?

Dr. Neufeld: Senator, I do not think I followed your question.

Senator Grosart: I am speaking, really, of withholding taxes, and so on, which obviously affect the desirability of this or that interest investment.

Dr. Neufeld: I think it is safe to say that the lower the tax on income earned by foreign investments, the greater the inflow of capital will be. If you remove things such as the withholding tax you will have made the Canadian market a more attractive investment for foreign investors, and one would think that would cause a bigger inflow. Again, many other things might be happening at the same time, which could discourage investors, but that is always the case.

Senator Grosart: We are sometimes told that Canadian per capita investment in the United States is greater than American per capital investment in Canada. Is that true, and if it is, is it significant?

Dr. Neufeld: I do not have the figures in front of me, so I would not want to answer definitely; however, I think it is true, senator. I am sure your memory is correct. However, whether or not it is significant is very difficult to say. A

small per capital investment in Canada on the part of American citizens adds up, since they have ten times the population. Looking at it from the point of view of the ability of our economy to use another economy's savings, the significant factor would not be the per capital savings of the United States in Canada, or those of Canada in the United States, but rather the total aggregate absolute savings involved. I would think, that that would be a more direct way of looking at the essential fact, that Canada has for a long time, been a country to which foreign savings seem to have been attracted, and where they have been put to productive use.

Senator Grosart: Would you say that if domestic government policies in either country—and I am still thinking of Canada and the United States—resulted in a large outflow of capital from one country to another, this would affect the exchange rate?

Dr. Neufeld: Oh yes.

Senator Grosart: So this is something you have to consider in formulating domestic policies in this area, with regard to their relationship to the state of Canada-U.S. trade.

Dr. Neufeld: Oh, I think this is very, very important. Each one might have his own views, as to what sort of capital inflow he wants to have, or thinks is appropriate, but I think it is quite clear, on the basis of our own experience, that foreign capital and the effect of policy on the willingness of foreign investors to invest in Canada is important. We, I think, have seen, or might even see in the future, the need for capital spending programs in Canada of a volume that is very difficult to finance entirely within Canada. Under those circumstances we have a choice: we can either cut back our ambitions as to the kind of development we wish to see, or we can have conditions of a kind that will attract a sufficient flow of foreign capital. We can make that choice.

Senator Grosart: I would like to ask you if you think the present level of American investment in Canada is good. However, we are talking about the exchange rate, and that would be a political question anyway, so I will not ask it.

The Chairman: The witness came very close to answering that in response to my question, as did another witness.

Senator Grosart: I notice he has drawn away from it.

Senator Carter: I would like to follow up on this question of the United States a little further, Mr. Chairman. I suppose this is a policy matter, as to how we develop our country, but does Dr. Neufeld have any views on whether we do have in Canada sufficient capital for an adequate program of development of our country?

Senator Grosart: It is the same question.

The Chairman: It is hard, with respect, Senator Carter, for this witness to answer that.

Senator Carter: I do not want to put him on the spot, but we do have these conflicting views according to which people say, "Why are we bringing in capital when we have capital already in Canada?" I am not sure whether there is sufficient capital or not.

The Chairman: I do not wish to inhibit you in your questions, senator, but would another way of asking the question be this: Does the witness feel that the exchange rates we have, and the policies we have been following, have adequately met the requirements of Canada in so far as capital is concerned? It is not quite the same question.

Senator Grosart: Leave out the policy part of it.

Senator Carter: What I am thinking about is, we are bringing in tremendous amounts of capital to develop the James Bay project, for example, and we are looking forward to development of pipe lines in the Arctic. Certainly I cannot think that there is sufficient capital in Canada to finance all these projects on that massive scale, so it boils down to whether we should regulate our developments at a slower pace.

Dr. Neufeld: If I could, Senator Carter, I would answer your question on the following lines: I suspect that we can productively use foreign capital in the period ahead, just as we have used it in the past I think we would wish to see a situation where we are achieving good economic growth, where we have inflation and costs reasonably under control, where we have a fairly efficient exchange market, a stable one, though not in the fixed sense, and where the amount of capital which flows in is the consequence of the working out of this sort of stable environment. My judgment would be, and it is purely a personal one that in this sort of environment, because of the productive opportunities in Canada for capital expansion, we can productively use some foreign capital in the period ahead.

Senator Carter: That is true. But suppose we are going ahead with the pipeline, and to all intents and purposes we are, no one is going to stop the project in midstream. We have to do something about pipelines or get some energy from the Arctic. The consequence of all this capital inflow, what we get from ourselves and what we bring from ouside, is certainly going to keep our dollar up unless there are some other offsetting factors. Do you see any offsetting factors?

Dr. Neufeld: Hypothetically one can always see offsetting factors. Forecasting being a very inexact and uncertain art leads one to be pretty cautious in saying dogmatically that there will or will not be offsetting factors. Keeping that in mind, if one were to come to the conclusion that some foreign capital inflow is desirable because of the projects we are trying to finance in the energy area, and in other places, the more important point is whether that would cause disturbances. Remembering that those projects also involve substantial imports of capital goods—it is not just money that comes in, it is also goods that come in—the question is whether that whole development is likely to bring about undesirable disturbances in our exchange rate. I do not think it is at all apparent that that would be the case.

The import content of capital spending in Canada is quite high. We do import a lot of machinery, and capital equipment generally. I would think that this would be the case with projects that are ahead. So while on the one hand you borrow money, on the other hand you also use that money to buy goods abroad. To the extent that that happens, the rate of exchange impact may be zero.

Senator Carter: I see.

Senator Macnaughton: Does the Department of Finance exert any actual control over the borrowings of the provinces and the municipalities?

Dr. Neufeld: I think there are no exchange controls in Canada of any significance at all so that not only the provinces, but individuals, corporations, Canadian and foreign, are free to borrow abroad, apart from the constraints imposed by the FIRA, and a few other factors, our border is open to capital.

Senator Macnaughton: Mr. Chairman, would the witness, in reference to the fall of the British pound, care to comment on British policy in that respect? They do not seem to be maintaining it. What is the purpose? Is it to increase exports, hoping that in due course inflation will lessen, or what?

Dr. Neufeld: Senator, I would ask your understanding if I were not to move into that subject. I would feel somewhat inhibited to comment on the policy of another country. We all know the sorts of forces which have been at work there and the attempts which are made to deal with them, but I think it would not be useful if I were to comment on that.

Senator Macnaughton: I certainly will not ask you for comments on their policy. I was just trying to get an economic reason for it.

The Chairman: Have they the ability to keep it from falling?

Dr. Neufeld: I suppose one could say if one were to look at published material relating to the relative movements in prices, costs and productivity over the last several years, one would end up not being surprised that there has been a devaluation of the British pound. That is over the longer period. I would not want to comment about whether a particular move in a particular week, month or year is right or wrong or too much or too little.

The Chairman: Do you know what their reserves are at the moment?

Dr. Neufeld: No. But they have a floating exchange rate. Therefore their reserves are not threatened the way, for example, the reserves of France were so long as they were part of what is called the European snake, or fixed exchange rate arrangement.

The Chairman: But if they intervened to keep it up they would be using those reserves.

Dr. Neufeld: Yes. There would be an immediate threat to exhaustion of reserves.

Senator Grosart: Mr. Chairman, I have just blocked off on this Balance of Payments Summary (1950 to 1975) Chart, for the years 1962 to 1970, which was the period in which the Canadian dollar was down in the 92-94 cent range. I am trying to see if there is any causal relationship between these components of the balance of payments summary and the exchange rates. For example, if I look at "Merchandise Exports" I see them steadily rising through that period and then continuing to rise as the Canadian dollar value rises. It is much the same thing with respect to imports, and moderately the same, until the last year, on the trade balance—a steady increase in service receipts and in service payments—a steady decrease all the way, regardless of the level of the Canadian dollar vis-à-vis the U.S. dollar, and so on. What is the relationship between these components of the balance of payments and the exchange rate? I do not see anything clearly indicating that these important components seem to affect the exchange rate. It would be very interesting, Mr. Chairman, if we could have the exchange rates listed beside these various years.

The Chairman: There are one or two questions I have myself concerning this chart before it is printed, and I will come to those when you are finished your questioning.

Senator Grosart: I just wanted to know where we see a causal relationship between these components and the exchange rate. Or is there one, or should there be one?

Dr. Neufeld: I think that it is very difficult to see a causal relationship when the changes are quite small. When you see big changes, then it is easier. If, for example, you looked at 1970 when you had a substantial upward adjustment in the exchange rate to a level that was more in line with historical experience you also had at that time substantial movements on current account which would help explain that. We did in that period, as the top panel shows, see developments that led to a substantial surplus on current account which is very unusual for Canada from an historical point of view. In that case one can say that there certainly were very important developments in our exports and imports and in the relationship between the two of relevance to the behaviour of the exchange rate.

Senator Grosart: But it does not continue. In the next year, 1971, we are back to a minus situation, and in 1972 we are again back to minus $470 million.

Dr. Neufeld: We saw an upward move in the exchange rate, and until the early part of 1974 we saw it balance roughly around par,—sometimes a little below and sometimes a little above. I think that one must remember that capital flows can have substantial effects as well.

Senator Grosart: But we do not see very much difference in pattern. Here I am speaking of long-term capital. We do not see a great deal of difference in pattern. There is in dollars, but they are not the same dollars; I admit that. But there does not seem to be any general indication of relationship period to period. There may be from year to year but not from period to period. There is nothing to show that any of these factors are themselves determinants of the exchange rate. So what are the determinants?

Dr. Neufeld: I think these are the determinants, but i think it is very difficult to portray them statistically. The reason is partly because of the complex lags that are involved in the system. The fact that you have a move in trade today may not have its full impact until somewhat later. That is one problem. I think another problem is that at any one time you do not have all the influences going in the same direction, so that when trade is going one way, capital may be going the other way and the balance might not be changing at all. Then you might say, "Well, look, on the basis of trade, one would expect a big move in the exchange rate." But it is not a question of just trade and capital. Sometimes it is also a question of confidence.

Senator Grosart: Market psychology.

Dr. Neufeld: Yes, market psychology, and confidence in policy. As a result of this, while I am fully confident in my own mind that within this sort of information lie the forces back of the exchange rate, to translate that into statistically provable presentations is very difficult.

The Chairman: Particularly year by year?

Dr. Neufeld: Yes, particularly year by year.

The Chairman: Well, Dr. Neufeld, some members of the committee would be quite disappointed, I am sure, if I did not interject my regional bias into the proceedings at this point.

Senator McElman: Before we come to your regional bias, Mr. Chairman, and following from what Senator Grosart was asking relating to the trends over a period of time, was it not in the period from 1970 to 1972, inclusive, that we had our greatest period under the Auto Pact? And do those figures not reflect that?

Dr. Neufeld: Yes. I think it started a bit before, if my memory serves me correctly.

Senator McElman: But were not those the peak years to our benefit? I do not have the figures we got from Industry, Trade and Commerce, but my recollection is that those were the peak years.

The Chairman: I think you are almost certainly right, Senator McElman.

Dr. Neufeld: I think there is no doubt that in the first years of the Auto Pact the impact of it was to increase our exports more than our imports quite significantly, and that factor taken by itself was one that led to a strengthening of the Canadian dollar.

Senator McElman: Following from that, what really is the effect of our exchange rate vis-à-vis the United States from the Auto Pact?

Dr. Neufeld: I am not an expert on the Auto Pact so far as its workings are concerned and I would be misleading you if I said anything that implied that I was. I can just make a very simplistic and not helpful statement that when the trade in that sector or any other sector moves towards a surplus, its effect by itself would be to strengthen the dollar, and if it moves towards a deficit, then its effect, taken by itself, would be to weaken the dollar.

The Chairman: But that applies to any trade.

Dr. Neufeld: That applies to any trade.

Senator McElman: All right, Mr. Chairman, you can carry on with your regional bias.

The Chairman: Earlier in your remarks, either in response to a question or in your opening statement, you said that there was no particular advantage in a lower exchange rate for Canada vis-à-vis the United States.

Senator Grosart: No *necessary* advantage.

The Chairman: That is right, no necessary advantage. You said the thing to do was to have all the factors in their best perspective. This came—and I won't say as a shock, but I was interested in your comments because, coming from a resource-oriented part of the country, we sit with bated breath waiting for somebody to get the exchange rates down so that we can maintain our exports into world markets. While I appreciate the fact that it is impossible to put your exchange rate down artifically to what we would call a favourable level—say, 10 per cent below the American level because the other market factors would in time force it up on you and it would be too expensive to keep it down there—I come back to this proposition. Here I should mention that you were saying, or you were wondering, if it was to a nation's advantage to be exporting its commodities to that extent. I am afraid this is going to be rather a long-winded question, but I hope that it will be one that you can answer. If we went for lower exchange rates to the extent possible, and kept pushing and pushing them down, and maintained our exports at a maximum and got our imports down to a minimum in a sense . . .

Senator Grosart: By import controls?

The Chairman: No, just by keeping the exchange rates down, which has an effect on making imports more expensive and therefore inhibits them to some extent—would we not by that mechanism encourage the formation of capital in Canada to the extent that we would have to import less capital because we would have a more favourable balance of trade from year to year? Would this not be of advantage to Canada? In other words, is a high rate not a form of luxury?

Dr. Neufeld: Again I do not wish, myself, to use the term high rate or low rate. I would prefer to use the terms appropriate rate and inappropriate rate. My own feeling is that if one were to keep a rate that is inappropriately low it would lead to the sort of consequences for the economy in general that I mentioned earlier. That is, it would lead to the shift of resources to the export sector. I am not now thinking in terms of one year. Over time it would shift resources away from domestic industry to the point even where the capital being put into export industries would be less productive than it could have been if left in domestic industries.

The Chairman: I am not following you on that, doctor.

Dr. Neufeld: We do not have to use the example of the exchange rate. We could use the example of discriminatory taxation, or subsidies. They all have the same effect. If we did any of those things, used such artificial measures to increase the export sector, this would have the effect, finally, of encouraging the movement of real resources of capital into the export industries to the extent that the real productivity in those industries, the productivity after adjusting for the tax benefits or subsidies they would get, would be lower than it would be if the capital had been left in the domestic industries.

Therefore, the important thing is to get the right balance, to put capital to work in the most productive manner, some in the export sector and some in the domestic sector with, hopefully, the mix of such a nature that basically capital in all sectors is equally productive. That is the real economic test. The minute one talks in terms of special measures to encourage the movement of capital this way or that way through artificial means, such as the exchange rate, tax measures, subsidies or other means, one must immediately face the fact that one may be putting capital artificially into areas in which it is not as productive as it might have been had it not been directed to such areas.

The Chairman: We already do that in glorious fashion with tariffs, higher taxes on resource industry than on manufacturing industries and other measures. You are saying that we must be pure in the area of exchange rates but not in these other areas.

Dr. Neufeld: My comments are of a general nature, reflecting a personal bias, which is that I do not see economic advantage in taking action that would have the effect of moving capital resources away from where they can be most productive. Now, I am prefectly realistic and know the economic system is far from perfect. It does not always work completely well. One can raise the question as to whether, because of rigidities in the system, special

means are needed to make sure that the resources are moved to where they can serve the country best. Therefore, rather than saying one should not do this and one should not do that, I would rather say that in my opinion a case would have to be made for taking particular actions. Now, in the case of taking this or that action with respect to exchange rates, I have referred to the fact that I think that one would wish to look carefully at the overall national effect on the utilization of our resources if a particular exchange rate policy were pursued. But there is the added element of how to go about changing the exchange rate if it were desired to do so by artificial means.

Some of the undesireable consequences of taking action arise from the means used to take such action—for example, even if you ignored completely the economic disadvantages in resource allocation terms that might arise from adopting an artificial exchange rate, how would you choose to do it? Under present circumstances, would one want to do it by lowering interest rates through expanding the money supply and accepting accelerating inflation? One immediately encounters difficulty if one chooses that route.

Senator Grosart: It could not be done, in any event. We might say that the Canadian dollar is at 92 cents American, but those in New York might regard it as being at 98 cents.

Dr. Neufeld: It would have to be done in a way that the market created the rate desired.

To achieve the lower rate through increasing our trade deficit by encouraging imports would immediately cause problems, because the imports would be competing increasingly with Canadian domestic industries.

Some might argue for a lower rate by controlling capital inflows. I think that experience suggests, not only in Canada, but in most countries, that this is an incredibly difficult thing to do in a period of peacetime. I think one would wish to examine quite carefully whatever suggestions one would wish to make concerning how one would go about establishing a different exchange rate, even if one were prepared to disregard the long-term economic consequences of bringing it about.

Senator Grosart: In the early part of your answer, were you not really coming back to the difference in the economies of countries, as between those that have a high level of marketable primary resources and those that have not?

Are you not really saying that if capital is allocated to the export sector—given a limitation on the capital available, which there always is—you may then lower your capacity, in, for example, the manufacturing level to export and, in the end, wind up with a lower level of exports, particularly in those areas that are job-intensive?

Dr. Neufeld: I think those are the kinds of effects that could emerge, senator, and that could cause one, quite quickly, to realize that while a particular policy action of that sort might benefit a particular group of companies, it might work very much against the economic position, the financial position, of another group of companies.

For example, a move towards a lower exchange rate is not likely to help those companies that are in the business of importing consumer goods to satisfy demands of Canadians.

Senator Grosart: Or to reprocess.

Dr. Neufeld: Or to reprocess.

Senator Grosart: There would be a great difference, say between Canada and Switzerland. Switzerland can direct capital flows into its domestic industries. The Swiss can manufacture watches forever, if they can create an export market for them by an exchange rate device, but such an action would have a very different effect in Canada.

Dr. Neufeld: I think it is the case that every time you think of this or that move in terms of the exchange rate, you really think of a number of consequences flowing in a number of directions—some that will have a short-term beneficial effect on some and a short-term harmful effect on others. That is almost always the case. As you mentioned, a lower exchange rate would result in increased costs to many companies that depend on imports for processing or for capital goods.

Senator Grosart: It is like cutting your wife's allowance—you never know what the consequential flows will be.

The Chairman: Could I summarize this last part of the discussion in this way, without resolving the arguments as to whether or not we would be better off with a rate for the Canadian dollar considerably below the American dollar for export purposes? In essence, we cannot intelligently force it down too easily anyway, without causing other effects to our disadvantage, and this really brings us back to the point you were kind enough to make earlier in your remarks, namely, that generally speaking you favour the market forces operating a floating rate such as we have at the moment, subject to normal adjustment.

Dr. Neufeld: Yes, and having in mind the particular forces operating in the international environment, of the kind to which I referred.

The Chairman: Yes. It is getting late, but I just have one or two points concerning this chart which we are going to include, with one or two corrections.

It has been very difficult, in the short time I have had while we have been chatting here this afternoon, to look at the chart and take too much from it. It would be much easier for me if one column showed a net figure on capital rather than have the long-term capital and the short-term capital in separate columns, unless there is something very significant there. If those two columns could be brought into one, then we could see the current account balance, the capital, and the change in the reserve in three columns, side by side.

Dr. Neufeld: I would be happy to change that.

The Chairman: The only other thing we did not touch on is a column near the end entitled, "Special Drawing Rights," with the amount noted of $133 million. Do they get added to the exchange reserves, or subtracted?

Dr. Neufeld: They would constitute by themselves an increase in our reserves. The special drawing rights are a new form of international liquidity which is allocated from time to time by the International Monetary Fund, and which is available to Canada in settling its debts with other countries in certain types of transactions; but essentially, that is not a very interesting column, as you can see, because there have been no recent allocations of SDRs.

The Chairman: Would it do violence to simply add them into the reserves?

Dr. Neufeld: It would not do violence.

The Chairman: We can simply eliminate that column, then?

Dr. Neufeld: Yes.

The Chairman: And then there was Senator Grosart's suggestion about a column with the exchange rate on the side.

Dr. Neufeld: Yes; we are going to add that.

Senator Carter: I am a little puzzled when trying to relate this column headed, "Net Transfers." Does that have any relation to any of the other columns?

Dr. Neufeld: It is useful for some kinds of analysis, to show the balance on services and the balance on merchandise without showing the purely financial transfers that might be occurring between individuals of two countries; that is, gifts, and that sort of thing. That is the reason why that is netted out. It is an additional bit of information which is of use to people who really want to concentrate on trade in merchandise items and in services.

The Chairman: That would include gifts by will, and any number of things you could think of that would be worthwhile.

Dr. Neufeld: Yes.

The Chairman: I just have one last question, if you will bear with me for one moment. With regard to the reserves you describe as being owned by the people of Canada, all the other columns are private transactions. I am thinking of exports, imports, services back and forth, and most of the capital coming in and going out, together with private or provincial or municipal capital. Now, the columns have to balance in a bookeeping sense. If we have a shortfall in these private transactions the reserves go down. How does the money get out of the reserves over to these private people; and if we have a surplus in a year, and the reserves go up, how does the money get out of private hands into the government's hands?

Dr. Neufeld: That is a very good question. I think the best way to understand it is to ask the question: what would happen if the official authorities decided not to change the reserves at all, to simply stay out of the market? What would happen is that all transactions would be netted out as a consequence of market forces. This would simply mean that if the change in reserves had been zero, net capital movements would have been different and would have been exactly equal to the interest account balance.

The Chairman: The net capital movements would always balance?

Dr. Neufeld: They would always balance as they did before. In that case the figure for net capital movements would be identical with the balance on current account.

The Chairman: I get you.

Dr. Neufeld: Mind you, I am not saying that that would have produced exactly the same exchange rate.

The Chairman: No, I do not mean that.

Dr. Neufeld: Because of that implied difference in the behaviour of the official reserves, capital flows and the current account might have balanced each other off partly through a slightly different exchange rate, and a different interest rate.

The Chairman: Can I take it from your answer to my question, then, that the fluctuation in the reserves up or down each year is a precise yardstick of the level of intervention of government in the exchange rate during that period, or a pretty good one?

Dr. Neufeld: It is quite a good measure. It is a net measure. It does not show what the gross sales were and what the net sales were, and it does not show any forward transactions. Generally speaking it is a good indication of the intervention.

The Chairman: You could have heavy intervention by government this way, and heavy intervention this way six months later, and have it all come out even?

Dr. Neufeld: It is a net figure.

The Chairman: That is most helpful. I just had those one or two questions on my list, honourable senators. Are there other questions?

Senator Carter: We have lots of questions, but I do not think we have time.

The Chairman: I think we have almost run out of time. I would like on your behalf, honourable senators, to thank Dr. Neufeld very much for coming, for the frankness of his responses, and to say to him that it has been most educational and useful, I know for myself, and I am sure for other members of the committee. Thank you very much.

Dr. Neufeld: It has been my pleasure.

The committee adjourned.

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1974-76

THE SENATE OF CANADA

PROCEEDINGS OF THE

STANDING SENATE COMMITTEE ON

FOREIGN AFFAIRS

The Honourable GEORGE C. van ROGGEN, *Chairman*

Issue No. 27

THURSDAY, MARCH 18, 1976

Twenty-Fifth Proceedings Respecting:

Canadian Relations with the United States

(Witnesses: See Minutes of Proceedings)

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THE STANDING SENATE COMMITTEE ON FOREIGN AFFAIRS

The Honourable George C. van Roggen, *Chairman*

The Honourable Allister Grosart, *Deputy Chairman*

and

The Honourable Senators:

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Barrow	Laird
Bélisle	Macnaughton
Cameron	McElman
Carter	McNamara
Connolly (*Ottawa West*)	Rowe
Croll	Sparrow
Hastings	Yuzyk

Ex Officio Members: Flynn and Perrault.

(Quorum 5)

Order of Reference

Extract from the Minutes of Proceedings of the Senate, Wednesday, November 6, 1974:

"Pursuant to the Order of the Day, the Senate resumed the debate on the motion of the Honourable Senator van Roggen, seconded by the Honourable Senator Riel:

That the Standing Senate Committee on Foreign Affairs be authorized to examine and report upon Canadian relations with the United States;

That the Committee be empowered to engage the services of such counsel and technical, clerical and other personnel as may be required for the purpose of the said examination, at such rates of remuneration and reimbursement as the Committee may determine, and to compensate witnesses by reimbursement of travelling and living expenses, if required, in such amount as the Committee may determine;

That the papers and evidence received and taken on the subject in the preceding session be referred to the Committee; and

That the Committee have power to sit during adjournments of the Senate.

After debate, and—
The question being put of the motion, it was—
Resolved in the affirmative."

Robert Fortier,

Clerk of the Senate.

Minutes of Proceedings

Thursday, March 18, 1976
(33)

Pursuant to adjournment and notice, the Standing Senate Committee on Foreign Affairs met at 9:38 a.m. this day.

Present: The Honourable Senators van Roggen (*Chairman*), Carter, Connolly (*Ottawa-West*), Grosart, Lafond, Laird, McElman, McNamara, Rowe and Sparrow.—(10)

Present but not of the Committee: The Honourable Senator Riel.

In attendance: Mrs. Carol Seaborn, Special Assistant to the Committee; Messrs. Bill Neil and Robert Robichaud from the Library of Parliament, Research Assistants to the Committee; and Mr. Darcy Magee, United States Division, Western Hemisphere Bureau, Department of Industry, Trade and Commerce.

Witnesses: From the Department of Industry, Trade and Commerce:

Mr. T. M. Burns, Senior Assistant Deputy Minister;

Mr. C. J. Kelly, Assistant Director, Western Hemisphere Bureau;

Mr. G. Elliot, Acting Director, General Trade Policy Branch; and

Mr. John Donaghy, Chief of the GATT Division.

The Committee continued its study of Canadian Relations with the United States.

At 12:22 p.m. the Committee adjourned to the call of the Chairman.

ATTEST: E. W. Innes,

Clerk of the Committee.

NOTE: At a subsequent meeting of the Committee, (March 23rd), Senator Grosart tabled a summary of Canada-United States non-Tariff barrier problems, with the request that it be included in these printed proceedings. See *Appendix "A"* to this issue.

The Standing Senate Committee on Foreign Affairs

Evidence

Ottawa, Thursday, March 18, 1976

The Standing Senate Committee on Foreign Affairs met this day at 9 . 30 a.m. to examine Canadian relations with the United States.

Senator George van Roggen (*Chairman*) in the Chair.

The Chairman: Honourable senators, we have with us again this morning Mr. Tom Burns, Senior Assistant Deputy Minister, International Trade, Department of Industry, Trade and Commerce, along with several of his officials, as follows: Messrs. Kelly and McGee of the United States Division, Western Hemisphere Bureau, Department of Industry, Trade and Commerce; together with Messrs. Elliot and Donaghy, of the Office of General Relations to discuss with us the general subject of non-tariff barriers.

I might mention that next Tuesday afternoon we will have Mr. R. D. Brown, senior tax partner, Price, Waterhouse & Co., who will speak to us on competitive tax structures in Canada and the United States and their effect on competitiveness.

On behalf of the committee, I should like to express our gratitude to Mr. Burns, who must feel as though he has been permanently seconded to this committee because of the number of times he has appeared before the committee in the last few months. We greatly appreciate his giving of his time.

As in the past, Mr. Burns, perhaps you would being with an opening statement, following which Senator Grosart has kindly consented to lead off the questioning.

Mr. T. M. Burns, Senior Assistant Deputy Minister, Department of Industry, Trade and Commerce: Thank you, Mr. Chairman. I should like to say that it is a pleasure to appear before the committee to discuss these matters. We in the department have found it to be a very stimulating experience and one which we have very much welcomed.

You have asked us to talk a little about non-tariff barriers this morning, Mr. Chairman. I thought, first of all, I would like to define what that term means. Non-tariff barriers, really, are any impediments to the free flow of goods across national boundaries, other than customs duty rates inscribed in the national tariff of the importing country. There are many different kinds of non-tariff barriers and they arise in different ways and for different reasons. Often, their existence is not related to an objective of restricting trade. In such cases the trade barrier may be an incidental result of a measure applied domestically for totally different reasons—for example, consumer protection or environmental protection.

How do non-tariff barriers arise? Some are ancillary measures to procedures for the importation of goods, or the procedures involved in customs documentation, customs entries, and so on, which sometimes result in burdensome time constraints and additional costs and uncertainties.

Other non-tariff barriers are already embodied in the provisions of the GATT and are consistent with the international obligations which have been taken on by members of GATT. Examples of non-tariff barriers which may be sanctioned under the GATT include escape clause or safeguard action under GATT, Article XIX. Under this provision, measures such as quantitative restrictions may be legally introduced to deal with situations where serious injury to domestic producers is caused or threatened by increased volumes of imports.

Another example is anti-dumping duty. Here again, the GATT international code permits the application of dumping duties in addition to regular customs duties under certain conditions related to the price of the imported product and the fact of material injury sustained by domestic producers in the country of importation.

A third example is in the countervailing duty area. This is a special duty which may legally be applied to offset any bounty or subsidy applied, directly or indirectly, on the manufacture, production or export of goods. The GATT Article VI provides that countervailing duties shall not be applied unless the bounty or subsidy is such as to cause or threaten to cause material injury to a domestic producer, or indeed to retard materially the establishment of a domestic industry. Countries under the GATT may also quite legally take temporary measures at the border to restrict the flow of imports in order to deal with balance of payments problems. Article XII of the GATT permits the application of quantitative restrictions in order that the country may safeguard its international financial position.

Another area where non-tariff barrier restrictions may be fully consistent with countries' international obligations involves restrictions on the importation of agricultural or fisheries products when like or substitutable products are covered by a supply management program in the domestic market. Article XI of the GATT specifically permits quantitative restrictions in those instances where unrestricted imports would make it difficult or impossible to enforce a program which involved restrictions on domestic production and/or marketing.

Many non-tariff barriers are not related to specific trade measures at all. They may be a function of government policies or programs related to totally non-trade objectives, but which have an incidental impact on trade because the measures apply equally to imported and domestically produced goods. Examples of this kind of NTB include product standards, health and sanitary regulations, other consumer protection regulations, environmental protection regulations, packaging and labelling regulations, marks of origin.

Other government policies may be specifically aimed at influencing the level and composition of imports through the creation of non-tariff barriers. A good example of this is the procurement practices of governments and government agencies, such as public utilities. Sometimes governments seek, through legislation or other means, to influence the procurement practices of companies as well. In addition, on occasion product standards or health and sanitary regulations may be drafted with their potential trade impact very much in mind.

Senator Grosart: Mr. Burns, you are not now dealing with non-tariff barriers that are permissible under GATT, are you? You are using the word "may". You mean it is possible that this will happen, but you are not now dealing with the ones that are permissible under GATT?

Mr. Burns: No. I set out the four circumstances, I think, where they are permissible. I am now talking about others and am trying to indicate the wide variety of causes which may lead to non-tariff barriers and the variety of things that may be seen to be in non-tariff barriers.

In many cases it is possible, for example, through the use of carefully drafted standards to exclude completely imports from other countries. Some non-tariff barriers are not the doing of governments at all. The growth of multinational corporations and the international specialization of production within those enterprises has led to a tremendous growth of inter-corporate trade. The procurement practices of such companies may not be based solely on seeking the most economic source of supply. Corporate procurement practices of companies which are not internationally oriented may also represent a non-tariff barrier in a number of cases. There is evidence that many of the larger Unites States companies deliberately follow procurement policies which favour domestic over foreign suppliers.

What is the impact of non-tariff barriers? In our experience, the level of non-tariff barriers today is not much different from the level at which it has been over a number of years, but they have become more visible as other barriers to trade, customs duties, have been reduced successively in tariff negotiations.

Individual non-tariff barriers vary greatly in their impact on trade. Some are wide-ranging in terms of product coverage. For example, government procurement policies, trade restrictions for balance of payments reasons, packaging and labelling requirements, and customs documentation and entry procedures all cover a wide range of products. Others are more narrow or more precise in their impact on trade. For example, the impact of a product standard, or a health and sanitary regulation, or an anti-dumping action may be felt only on a particular product or in a small group of products.

The severity of the impact also varies. At one extreme a prohibition on imports of a particular product, or a product standard carefully drafted to have the same effect, can completely eliminate trade in that product. Other measures, such as anti-dumping or quantitative restrictions, may not eliminate trade but may have a substantial effect on volumes. Some non-tariff barriers, on the other hand, may represent little more than an inconvenience to exporters or importers, which may increase costs and reduce somewhat the attractiveness of doing international business. Customs procedures and formalities often fall into this category.

Mr. Chairman, after trying to explain the scope of the non-tariff barrier issue, if you will permit me I should like to describe in some detail some of the more important non-tariff barriers which Canadian exporters face in going into, in particular, the United States.

The Chairman: In particular the United States, which is what we are studying.

Mr. Burns: The tariff classification system of the United States is a particular non-tariff barrier, and one of substantial importance to Canadian exporters. Why? Principally because it takes a very considerable length of time to obtain an official ruling on tariff classification from the United States customs authorities. Delays of six months to two years have been encountered on particular occasions. It is most important to have an official ruling on the tariff classification of each export, as official rulings are not changed without due notice being given of the proposed change, and interested parties are given an opportunity to present views as to why changes should or should not be made.

However, an official ruling given to one company does not protect the exports of another exporting the same or a similar product. Each exporter must have official rulings on each of the products which he wishes to export to the United States, otherwise he faces the possibility of tariff classification changes, which can have an effect on the amount of duty chargeable on his products, and that duty can in some cases be assessed retroactively.

United States customs administrative systems also can lead to considerable delays in the processing of customs entries. Goods are received at customs and can be cleared immediately for entry into the United States. However, the actual entry papers may not be finally processed by the United States customs authorities for periods which, at their limit, can range from several months to a matter of years. This occurs because under the United States system estimated duties are taken at the time the goods are physically entered into the United States, and the customs action is not completed until the goods have been appraised and the entry liquidated—which is the term of art used in this rather esoteric business. It is the process of appraisement which establishes the value for duty and the tariff classification, and therefore the rate of duty to be applied, and this is what delays the processing of the customs entry.

United States documentation procedures are also extremely detailed and complex, and require the submission of considerable information in addition to the normal commercial information that is required in relation to the transaction.

I have now dealt with the classification; that is, which item in the tariff a product falls under which influences the rate of duty that is assessed, and the administrative procedures, which are lengthy.

There is a third general problem, which relates to the valuation. Of course, in the exercise of finally determining the amount of duty to be paid there are really two principal facts that have to be ascertained: the value of the goods and the rate of duty to be applied to them.

I would like to mention, for a moment, some of the problems in relation to the U.S. value system that applies to Canadian exporters. The United States operates two systems of evaluation for duty. One section of the U.S.

Tariff Act, section 402A, defines what is commonly referred to as the "old value law". This law applies to a specific list of goods, encompassing about 1,000 products, and is referred to as the "final list".

The reason for this is that in the 1950s, the United States changed the basis of the evaluation of imports into the United States. By and large the "new value system" is a less restrictive system than applied before that.

When the Congress was looking at the change that was made, it asked that determination should be made where moving from the old system to the new system would involve a substantial reduction in the value of goods for duty that were moving into the United States at that time. It required that the old system be continued for those products where the change would have resulted in a significant reduction in the value for duty.

The old value law really sets out, as a primary basis for valuation, the foreign value or the export value, whichever is higher. In determining prices at which goods are traded in the home market in the country of exportation, U.S. customs are required to disregard the prices to all trade levels, through which the goods are being sold, and look to the price which is available to any purchaser in Canada, who purchases at wholesale.

Thus, if a Canadian exporter, in the home market, sells to distributors, wholesalers, chain stores, department stores and small retail customers, at varying prices, the impact of this value law is that the value for duty will be taken as the selling price to the small retailer, if that is the only price at which the goods are offered freely to any purchaser. This raises the valuation and, therefore, has impact on the total value of the customs cost.

Senator Laird: That really is anti-dumping, is it not, that you are talking about?

Mr. Burns: No, it is a question of the valuation. If you look up the home market system of evaluation, of the kind for example which Canada employs, I think you would see we look for the home market value under similar conditions of trade as that applying to the sale of the goods into the Canadian market. Therefore, if the goods are coming, from an exporter to Canada, to a wholesaler, then we would look at the home market system and find a similar range of sales and apply that value.

This system has the effect, generally, of moving the value down the scale, and it can be into the retail value in a number of cases.

Am I right on that, Mr. Kelly?

Mr. Charles Kelly, Assistant Director Western Hemisphere Bureau, Department of Industry, Trade and Commerce: Almost all.

The Chairman: Therefore, in effect, we would recognize what is commonly described as a quantity discount.

Mr. Burns: Yes.

The Chairman: And they will not.

Mr. Burns: That is right. This group of products is affected by the final list under the old value law, which covers about 1,000 products.

Senator Grosart: Not necessarily quantity.

The Chairman: Including quantity.

Mr. Kelly: To simplify this, if I may, it is not really a bargaining price situation. That is what I want to clarify.

For example, if you sell in the home market here at $1,000, or whatever the unit price is, and you sell this unit to the United States at $1,000 and this is the price to the wholesaler in the home market. You also sell this to, say, a small retailer in the home market and you charge him $1,500. Therefore, on your sale to the wholesaler in the United States at $1,000, you are going to pay duty on $1,500.

The Chairman: I understand.

Mr. Burns: If the rate of duty is 10 per cent, that means you are paying an additional customs duty of 10 per cent on the $500. That is the impact of this.

It is important to note that this does not apply across the board in the United States. It only applies to this group of products, some of which are very important. One, for example, to which it applies would be automotive parts for the after market that are not covered under the automobile agreement. Those auto parts are valued under the old value provisions.

The Chairman: So, of this 1,000 items, one of the thousand covers all the auto parts?

Mr. Burns: Yes.

The Chairman: Therefore, the thousand covers a great deal.

Mr. Burns: Yes. I believe we could provide you with a list of the more important items from the Canadian export side which are covered.

The Chairman: Is that particular grandfather clause to go on indefinitely?

Mr. Burns: Of course, this is one of the issues which I will come to later, to try and describe what we might be able to do in order to fix things up. Obviously this is a candidate for discussion in the Geneva negotiations, as one of the principal non-tariff barriers we will be after.

I should mention that the new value law, which is less restrictive, is also a complex document. It produces problems for related company shipments and it may also get one into a situation where unrealistic values for duty are assessed, when one looks at what goes into the value on the Canadian side—such as extra warehousing costs in Canada for domestic distribution and so on, which are not present in the cost situation—when one is selling to a related company in the United States.

Where goods are sold not at arm's length, with assists from the U.S. importer, value complexities again arise. Those assists may be cases where the U.S. importer has supplied technical know-how for the production of the goods, such as blueprints or drawings or supplying the tooling such as dyes and molds used in the production of those goods.

In determining the value for duty, the United States system would apply to those exports, the full value of the dyes or molds, at the time they left the United States regardless of the fact, for example, if those dyes were returned to the United States for further production, they may have a tooling life of many years still left.

A system that has only very marginal impact on Canada, which I should mention at this stage, is the

American selling price system of evaluation which really applies to what are known, in the trade, as benzenoid chemicals and are really an historical leftover from the days immediately after the First World War when the United States found itself in very serious difficulties about coal tar dyes. If you remember, that particular industry was developed in Germany in the early years of this century and during the First World War there was a very great shortage of that type of synthetic dye material. In the United States, in the twenties, they developed a very peculiar evaluation system in order to protect the development of a U.S. coal tar dye industry. That system of evaluation has remained until the present.

However, Canadian chemical exporters are not widely in that kind of trade and, therefore, it is not a substantial barrier to the Canadian trade at present.

I would like now, Mr. Chairman, to give a little plug for the department. I noticed we have not done that up to now, during the number of times I have appeared. In this particular area of customs classification, customs administrative procedure and customs evaluation procedures, I should let you know that the Department of Industry, Trade and Commerce maintains a very substantial degree of expertise on all of these matters, here in the department in Ottawa and in our embassy in Washington. Those officials, of which Mr. Kelly is the most senior in the department, provide an enormous amount of assistance to Canadian exporters in giving them advice as to how best to deal with these very great complexities that can arise.

This is a service which is unique, I think, and without wanting to appear to be blowing our own department's horn too much, I believe it is accepted in Washington that Mr. Kelly and his associates are as knowledgeable in this area as many senior U.S. customs officers. So, it is a service to the Canadian business community that is very helpful in enabling them to skate through a good many of the complexities of this rather cumbersome system.

Senator Grosart: Who is the expert for Canadian importers?

Mr. Burns: We only provide that service on a private basis, senator.

The Chairman: In that connection, Senator Grosart, I thought I might ask Mr. Burns to digress for just a moment to make a remark on what type of co-ordination or liaison goes on between Industry, Trade and Commerce and our customs people, which would come under National Revenue.

Mr. Burns: On the Canadian imports side, of course, the responsibility is with the Department of National Revenue to administer the customs law. However, we have always accepted that our principal role on the international trade side of the department is to be fully familiar with foreign customs tariffs and procedures, rather than domestic law, although in our industrial development work we do provide a good deal of technical expertise and help to the Department of National Revenue in terms of particular cases of changes and derogations which they may wish to institute from time to time.

The Chairman: You do work together?

Mr. Burns: Yes, we do. I might now turn, Mr. Chairman, to a very short description of the U.S. countervailing law, another important non-tariff barrier. Under Article VI of the GATT, member countries are entitled to apply countervailing duties on imports in an amount equal to any bounty, grant or subsidy paid directly or indirectly on the manufacture, production or export of such product in the country of origin. This is subject to a finding that such subsidies cause or threaten to cause material injury to an established domestic industry.

U.S. law, as it relates to dutiable goods being imported into the United States, does not require this injury finding. Therefore it is not wholly in line with the GATT provision. There is a technical reason why this is permissible, which is that the GATT is only provisionally applied by the member countries, and part of the provisional application of the GATT is that mandatory legislation which existed in the member countries before the GATT was adopted in 1947 is allowed to continue, even though it may be inconsistent with the provisions of the GATT itself. So that in a legal sense the American countervailing law is permissible, although it does not provide for the Americans to fully meet their obligations in a very important element under the countervailing provisions of the GATT,—that is, that they should find injury on imports before they apply a countervailing duty to balance the subsidy. Indeed, one should mention that in the U.S. Trade Act of 1974 the countervailing provisions were extended to cover duty-free imports as well as dutiable imports. In the case of duty-free imports an injury determination has to be made, since that legislation was introduced and passed after the GATT was brought into effect.

The principal problem for Canada in terms of the countervailing law is the degree to which regional expansion grants or loans may be considered by the United States to be a bounty or subsidy for countervailing purposes. I am sure that Mr. Chairman and members of the committee are aware of the problems which arose in the Michelin case and the decision which the United States took at that time.

Senator Grosart: What is the present level of duty with respect to Michelin?

Mr. Kelly: The countervailing duty is a little over three per cent, Mr. Chairman. What happens as exports to the United States increase, because the amount that has been assessed as being countervailable is fixed, the more exported, the lower the rate of countervail per unit. In other words, if the exports increased from 500,000 to one million units, the countervail would drop by half. It originated at approximately a little over six per cent.

The Chairman: The reasoning for that being that the amount of assistance given was finite.

Mr. Kelly: That is right.

The Chairman: Therefore, the duty is finite as the quantities increase.

Mr. Burns: Another non-tariff measure we wish to discuss with you this morning, Mr. Chairman, is the DISC, the domestic international sales corporations. Under the Revenue Act of 1971, the United States permitted special tax treatment to manufacturers with respect to their export-related profits which are attributed to domestic international sales corporations, or DISCs as they are known. A DISC may be established to engage in the business of exporting products manufactured, produced, grown or extracted in the United States. The DISC itself can physically exist, or be a paper operation. Articles exported may be produced by related or unrelated pro-

ducers and sold to related or unrelated buyers abroad. DISCs themselves are not subject to U.S. federal income tax. The shareholders of DISCs are treated as receiving one half of the DISC's earnings whether or not those earnings are actually distributed. The remaining one half of the DISC's earnings is exempted from federal income tax for as long as it is dealt with in three ways: Utilized in the export business of the DISC; invested in certain obligations issued or guaranteed by the export-import bank; or remains in the United States as producers' loans to related or unrelated United States producers. The Intercompany pricing rules under the DISC legislation are such that U.S. companies with wholly-owned DISCs are able to exempt from income tax by means of continuous and indefinite deferral of tax liability up to one half and at least one quarter of their earnings on exports, depending on the profit level realized by the DISC and its parent comapny combined.

I would like now to turn to problems in packaging and labelling. Under the Fair Packaging and Labelling Act of the United States, product labels must carry specific information as to the nature of the product, the name and address of the manufacturer, packer or distributor. It dictates where such information must appear on the product label, the letter size for statements and how net quantity of content must be expressed. This act, of course, is applicable to both domestic and imported goods, but in fact practice is that spot checks only are carried out in the United States on domestic products whereas the imported products are subject to close examination at the border points. As enforcement of the act and its regulations is the responsibility of a number of regional directors in the United States, interpretation and application of the law can vary from one area to another and from one border point to another. In a similar way, Mr. Chairman, the Consumer Products Safety Act, which applies to both domestic and imported products, has a differentially severe effect on imported products. We can go into some detail with respect to that, if you would like us to do so.

U.S. Government Procurement. The U.S. government is required by the Buy American Act of 1933 to favour domestic suppliers in government procurement. This law requires that U.S. government agencies purchase domestic products produced within the United States, except under three circumstances: (a) if such products are not available domestically; (b) if the cost of domestic supply would be unreasonable; and (c) if the purchase from domestic sources would be inconsistent with the public interest. An Executive Order of 1954 established specific guidelines for implementing the Buy American Act. It limits the preference margin to be accorded domestic products to six per cent above the delivered cost of lowest foreign bid, including the duty. By a subsequent provision, this preference was expanded to 12 per cent for small businesses and firms located in labour-surplus areas of the United States. The Buy American Act and the implementing Order to which I referred have left a broad discretionary margin to officials responsible for procurement, authorizing them to disregard the specific price preference limitations on grounds of national interest or national security. Accordingly, in 1962 the Department of Defence introduced in its purchases a 50 per cent maximum preference for domestic products over the lowest foreign bid, exclusive of duties. Other federal agencies generally apply the 6 and 12 per cent margins, but many have mandatory reviews by senior officials for all contracts above a certain value before a final award is made. More than 20 states, and several municipal governments, also discriminate in their purchasing policies against foreign suppliers.

The Small Business Act of 1953 established as U.S. government policy, as declared by Congress, that the government should place a fair proportion of purchases and contracts for supplies and services with small business concerns. For the purposes of government procurement a small business is defined in the United States as an independently owned and operated firm which is not dominant in the field in which it is bidding, and which meets the employee, sales and other statistical standards set by the Small Business Administration. The concept of fair proportion is not defined on a percentage basis, and varies widely from agency to agency, depending on the nature and size of the procurements. Their proportion is not applied on a contract-by-contract basis, but is determined according to over-all procurements by agencies or departments.

The United States has a considerable array of other laws and administrative procedures with "buy-American" elements in them. These involve preferences given to certain social groups, such as the blind, and there are some special preferences accorded to domestic suppliers of specific products such as twine and jewelled bearings.

Mr. Chairman, I am sorry that this is going on rather long, but we wanted to set out these important issues, if we could, to begin with, before the discussion starts.

The Chairman: It is very useful to get this material down on the record.

Mr. Burns: I should like now to turn to the United States copyright law. The provision of section 107 of the United States copyright law relating to "Importation, during existence of copyright of copies not produced in accordance with section 16," effectively prohibits the importation into the United States of works originally copyrighted in the U.S., even when some importation is fully authorized by the author or proprietor of the copyright.

The manufacturing clause in section 16 of the law limits the copyright protection for certain English language books and magazines, unless such books and magazines are manufactured in the United States. The effect of this is that books and periodicals published in another country, and which were produced by U.S. citizens and/or residents, are restricted to a total import level or 1,500 copies. Prior approval for the importation of books and periodicals in this category must be obtained from the United States Copyright Office. This procedure extends copyright to the author for a period of five years from the date of first publication. In order to obtain full copyright protection the book or periodical must be published in the United States during the initial five-year period.

I might in this case mention what Canadian action has been taken in relation to this rather specific non-tariff barrier. Other than notifying this trade barrier with GATT-and it is included in the inventory of material we will be taking up with the United States in the multilateral trade negotiations—Canada's efforts have been aimed at providing assistance to Canadian publishers and printers in determining the applicability of the manufacturing clause to books and periodicals published, or to be published and printed in Canada, and which are to be exported to the United States.

The United States Senate has now passed a bill exempting Canada from the manufacturing clause, and a similar bill is under consideration in the House of Representatives. This advance has been made mainly due to the pressure being put on the industry of the United States by the Canadian industry.

Another non-tariff barrier which has an impact in a particular area, or has a potential impact in a particular area, is the U. S. meat import law. The meat import law is designed to restrict the rate of growth in U. S. imports of beef, mutton and goat meat to the same rate at which domestic production rises. The rate of growth in production is measured by comparing average production in a base period with average production in the three most recent years.

The U. S. President is required to impose quotas on imports of such meat when official quarterly estimates indicate that in the absence of such quotas imports are likely to exceed the import target level by 10 per cent or more. The President, however, has authority to suspend the application of quotas or to expand their size if the determines that such action is required by over riding economic or national security interests, or if there is likely to be a short fall in domestic supply, or if voluntary restraints on the part of the exporters to the United States are negotiated.

Since this law was introduced in 1964, formal quotas have never been applied. In those years, whenever it has been considered necessary by the United States authorities to limit imports, voluntary restraint arrangements have been negotiated with certain major supplying countries. Since the law permits a 10 per cent overrun before the quota is triggered, exporters may ship 10 per cent more if they agree to restrain, than would be permitted if the quota were triggered. In some years the president has allowed import levels above target levels because of overriding economic interests and restraints have not been required.

I draw your attention to this, Mr. Chairman, not because Canadian exporters have been formally affected by this law, because we have not been affecied by import quotas, since they have never been applied, nor have we been asked by the United States to impose voluntary restraints; but because it does have an impact on the international meat trade as a whole, when one recognizes that Australia and New Zealand are important suppliers of meat both to the United States and to Canada.

Senator McNamara: Australia and New Zealand have voluntary quotas, though, do they not?

Mr. Burns: Yes.

Senator Laird: Mr. Burns, do you mind my asking this, at this point? I assume that practice is permissible under GATT, or it would not be done.

Mr. Burns: Senator, this is an interesting point, and I want to deal a little bit with the procedures that one might follow to get at some of these non-tariff issues; but in this particular case the U. S. law has never been formally challenged in the GATT, or at least the United States has never been asked formally to justify this law under a particular provision of the GATT. If it were, my guess is that it would be found to be outside the provisions of the GATT. Am I safe in saying that?

Mr. Kelly: I would say, Mr. Chairman, that if they put it into effect, and actively put quotas against trading partners, then those trading partners would probably have recourse to their GATT rights as against the United States, to get some adjustment or some compensation for that action.

Senator McNamara: Does the United States recognize agricultural products and meat under GATT?

Mr. Burns: They have a certain waiver in the GATT, but they have to have this under price support legislation before it can be exempted from the GATT provisions.

Senator McNamara: The waiver would not apply, necessarily?

Mr. Kelly: The waiver applies if the prices of goods being imported interfere with the domestic support program in the area concerned. That is mainly in the dairy area.

Senator McNamara: It is pretty wide, is it not?

Mr. Kelly: Yes.

Senator Laird: This sort of thing is done in the case of textiles, is it not?

Mr. Burns: Yes, that is right, senator, but the textile area is rather unique in international trade, in that there is a multilateral agreement among importers and exporters to deal with—I was going to say "curiosities", which would be the wrong word to use—the special circumstances applying to international trade in textiles.

Finally, Mr. Chairman, I would like to touch on the problem of how one gets at these non-tariff issues. How does one try to achieve their reduction or elimination? Clearly, in some cases, bilateral discussion between Canada and the United States can lead to changes in practice and changes in regulations which can be helpful. It is, I think, quite important to recognize on this occasion that in multilateral trade negotiations there are two avenues of approach in relation to these kinds of non-tariff barriers. The first is really bilateral negotiation between pairs of member countries of the GATT, where one can see if some amelioration can be found. We do expect, though, in some areas, to see attempts made to find multilateral solutions to these problems. Anti-dumping, prior to the Kennedy Round, used to be a very substantial non-tariff barrier as between Canada and the United States. The impact of U.S. regulations and practices on Canadian exports has been substantially reduced by the fact that in the Kennedy Round there was a successful negotiation of an international code of conduct on anti-dumping which took the GATT provision and fleshed out the kind of procedures that were to be followed by all signatory countries. This has not totally eliminated problems which we see in U.S. administration of anti-dumping procedures, but it has eliminated all of the worst excesses, or what we would have called the worst excesses, of U.S. administration of this kind of procedure. We would expect that multilateral solutions to non-tariff barriers might be found in a number of different areas in this kind of code-of-conduct technique. We would expect this to happen in terms of product and safety standards, where we would expect to have the code of conduct agreed. There may be possibilities of getting a code of conduct under the general heading of subsidies and countervailing duties, and there one of our objectives would be, of course,

to get the United States to insert an across the board injury provision in their law, and secondly to have a definition of the use to which regional development grants can be put before they can be considered as subsidies under that kind of provision.

Finally, one would expect that we might be able to get a code of conduct on government procurement which would reduce the discriminatory effect against imports acquired by government procurement agencies in GATT countries as a whole.

Mr. Chairman, that was a lengthy statement, but I hope you found it useful. Certainly, I and my colleagues will be very glad to answer any questions you might have.

The Chairman: Thank you very much for a most useful opening statement, Mr. Burns. I am sure it will give us all food for thought in pursuing the line of questioning which Senator Grosart will commence.

Senator Grosart: Again, Mr. Burns, thank you very much for a very interesting exposition. The first thing I noted was that you dealt only with some of the many NTBs that are concerning people in international trade. Was this a selective list that you gave us in terms of Canada-U.S. trade?

Mr. Burns: We have tried to select those that we thought had most important impact on Canadian exports to the United States.

Senator Grosart: By groups?

Mr. Burns: Yes.

Senator Grosart: I have just sent for the black books because I may want to ask about some others.

My first question is this: What is the comparative restrictive weight of the use of NTBs between Canada and the United States? Is it about level? Let us say if you were to measure it in terms, first of all, of complaints under GATT, and, secondly, under volume or value. I know this is a difficult question.

Mr. Burns: I think, senator, as a general statement it is fair to say that the variety of non-tariff barriers which have been identified in relation to the United States is wider than the variety that has been notified about Canada by its trading partners. When you look at a list of that kind, you have to accept that one non-tariff barrier could theoretically equal two or three hundred on the other side. We have never really been able to reduce to any kind of quantitative measurement the impact of non-tariff issues as between Canada and the United States, but I think we would have a very firm view that there is a higher level of non-tariff restrictions applied by the United States than by Canada, overall.

Senator Grosart: What is the proportion of the volume of trade between the two countries—let us say, on an import-export basis in each country—the volume that comes in free, the volume that comes in under tariff, and the volume that comes in under NTBs or is affected by NTBs? I am trying to get the proportion in terms of this problem of Canada-U.S. relations.

Mr. Burns: Let us take one of these examples that we used this morning. Let us take the customs procedures system. This concerns the physical problem of moving goods into the United States. It applies to all goods moving into the United States to a greater or lesser extent. Clearly there is not a tariff classification problem with, for example, cooper metal. There is a tariff item for copper metal, so you never get into an argument about the proper classification of that product. But once you have a machine that has a variety of uses, or a part or a component of something that may fall under four or five different tariff classification items, then you can have quite a serious barrier, at least in terms of time and in terms of becoming aware of precisely what your obligations are in customs, and therefore your ability to quote firm prices in the United States market. I know that that is a pretty general thing.

Senator Grosart: I know, but what I am really asking you is this, what volume is affected in any way? We must know what percentage of our exports to the United States and their exports to us, first of all, come under tariff. That would give an indication of what presumably comes in free. Then in the middle we would have the percentage of that so-called free entry affected by NTBs. What I am trying to get at is, how important is the NTB problem in terms of Canada-U.S. trade relations?

Mr. Burns: I am not trying to duck your question, senator, and we have already supplied information on the percentage of our goods moving in both directions, either free of duty or dutiable, in earlier meetings. The impact of non-tariff measures can be minimal or it can be sweeping, if you like, but I do not think we have ever tried to go through the thousands of items that appear in our trade figures. We have never tried to say, "This has a non-tariff barrier, but that hasn't." I suppose that is true of imports into Canada as well. But if other countries consider customs procedures either in Canada or the United States as less than ideal, then it will be true that all our trade is subject to non-tariff barriers of a particular kind.

Senator Grosart: Not all. It is very often said today—OECD has said it and GATT has said it—that there is a definite trend towards the substitution of non-tariff barriers for tariff barriers. At the beginning of your evidence you said that there had been a significant change in the level. To say that, I presume that somewhere along the line you must have estimated the level, that you must have made some kind of estimate. But is it true that there is a trend, a strong trend—and here again let us keep it to U.S. relations—to substitute NTBs for tariff restrictions?

Mr. Burns: With one exception, which I will cover in some detail, senator. I would not myself say that there is any strong trend towards increasing NTBs. What has happened is that NTBs, relatively, are becoming much more important in international trade than tariffs, because of the emphasis on tariff reduction which has taken place in the GATT since 1947. I think we have demonstrated some of the reductions that have taken place in the U.S. tariff, for example, in the 25 or 30 years since the end of the war. The one major exception that I think I should flag for you, whose impact is not yet determinable, is really the provisions of the U.S. Trade Act of 1974, in which the United States made more restrictive—if you are thinking in terms of an exporter to the United States—the provisions relating to escape clause action, and to what the United States referred to as unfair or unreasonable practices by exporters to the United States.

If honourable senators will look at those provisions, I think you will say that if they were implemented fully and zealously they might very well represent an increase in the

amount of non-tariff restrictions on imports into the United States. But I do emphasize that so far, while we have seen more applications, for example, for escape clause action on behalf of industries in the United States which feel themselves adversely affected by the imports, it would be premature to say that we have evidence of a substantially increased level of non-tariff protection in the United States.

I should also mention that these provisions in the United States Trade Act have not been brought before the dispute settlement arrangements that are available in the GATT to review whether or not actions taken by member countries are consistent with their obligations under the GATT.

Senator Grosart: What concerns me with your answer, Mr. Burns—as I told you, I have the "black book"—is that there are well over 100 Canada-U.S. complaints listed here, all fairly recent, within the last few years. You say, perhaps, the volume; but is the incidence of the application of non-tariff barriers increasing very greatly, because all the literature on the subject that I have read tells me we are in an era, in the world, of increasing protectionist settlement and increasing government intervention in business, and therefore in trade. It seems to me that so many of the ones we have heard about are directly related to new government policies in both countries—subsidies, and so on. I am surprised that you say this is not an increasingly serious problem in Canada-U.S. trade.

Mr. Burns: I wonder if I can get at this in another way, senator.

Senator Grosart: Excuse me. I might ask, is the press more aware of these things?

Mr. Burns: Let me make one other commentary on your question. I am not aware of any new non-tariff barriers of significance applied by the United States, except for those provisions that I mentioned in the U.S. Trade Act, which are important provisions. What I am aware of is that, for example, in customs administration there has probably been a more aggressive administration of those administrative procedures over the last three or four years.

Mr. Kelly: Since 1971.

Mr. Burns: To that extent, I think that what you say is correct. My first reaction to your question was to think of what expansion there has been in the coverage of non-tariff issues. That was the basis for my saying that aside from this Trade Act thing there has not been any very significant expansion of the various kinds of non-tariff barriers. There has been—and this is the point I have just made—a more aggressive application by the United States of the administrative procedures.

Senator Grosart: Would you give us a rough list of the acts of the Canadian Parliament that are regarded by the United States as having non-tariff barrier effects? The Customs Act, of course, is one, and the administration of the Customs Act; also the Canada Shipping Act, and so on.

Mr. Burns: Our own government procurement regulations.

Senator Grosart: Yes, regulations under an act, I suppose.

The Chairman: Labeling, as you mentioned.

Mr. Burns: Yes. In most of the kinds of things that I mentioned, except for the DISC and the copyright, we would find some equivalent in Canada. Whether its impact on our trade is as strong as is the impact on our exports is another question, of course.

Senator Grosart: In either volume quantitative terms or in dollars impact terms, in what order are those five or six classifications, which you gave us, problems in Canada-U.S. trade at the moment? Did you run down that list in more or less order of priority, when you started with customs practices and procedures and went on?

Mr. Burns: We developed that list, senator, on the basis of moving from the ones of widest application to those of particular application. The meat import law, for example, applies to only three categories of meat. Customs documentation valuation procedures apply to all categories of imports into the United States. It was mainly in that kind of a context that we were presenting those issues, I think.

Senator Grosart: I am still worried about your answer that there has not been a sudden very great increase in Canada-U.S. trade in the application and impact of non-tariff barriers. For example, we invented VER, voluntary export restraints. That is new. We had never heard of them until we invented them. There are 17 countries under them. I do not think we have any VERs with the United States.

Mr. Burns: There are no voluntary restraints applied to our imports from or exports to the United States.

Senator Grosart: We then set up the Textile and Clothing Board, which is strictly an NTB.

Mr. Burns: Of course.

Senator Grosart: We then have new monetary quotas; we have new regulations under the Canada Shipping Act; we have, it seems to me, a new application of the Export and Import Permits Act, and so on. I am pursuing this because, if the impression I get from your answer is correct, it is quite contrary to the assumption I had that we were dealing with something which has a new dimension in Canada-U.S. trade.

Mr. Burns: Mr. Chairman, let me take two or three specific things that Senator Grosart mentioned. The International Textile Arrangement is, of course, an arrangement to provide the management of international trade in textiles from what are known as low-cost suppliers to the principal importing countries. It does not really have any substantial application in Canada-U.S. trade terms.

I would not disagree for a moment with the fact that there are a number of voluntary restraints applied by countries like Japan, Korea and Hong Kong, and do not represent what is obviously a non-tariff barrier which did not exist 20 years ago. The Americans have a similar, but not identical, system which has a similar objective. So that if we look at the entire foreign trade of Canada or the United States, that is certainly, in the last 20 years, a new area of non-tariff restriction. But it has not had, as I say, any impact on the bilateral trade between Canada and the United States.

Senator Grosart: That is what I was coming to. Would you say, then, that from the Canadian point of view there has been an increase in the application of non-tariff barriers internationally, that it has been far less operative in

Canada-U.S. trade than it has been in Canada and other world trade?

Mr. Burns: You are asking me to shift my perspective.

Senator Grosart: In other words, I am wondering if we would take the position that because we behaved much better to the United States, say, than to other countries, we expect the United States to be nice to us.

Mr. Burns: Looking at the textile area, that is obviously a new system. Dealing with the agriculture sector, one can certainly say that the system of the community, in dealing with agricultural imports, represents a fairly substantial array of non-tariff barriers. If you take those two things together and asked if they applied to Canada-U.S. trade, the answer is that they do not.

If you come to the conclusion that those are new in terms of world trade, then I think you must come to the conclusion that the bilateral trade between Canada and the United States is less affected than is our trade in total.

Senator Grosart: I think that is an important point. You mentioned the very high level of the impact of the "buy American" laws. I think you said it was 50 per cent exclusive, which, I take it, means including tariffs. What is the Canadian level in that respect?

Mr. Burns: To go back a little bit, the general rule in the United States is 6 and 12 per cent inclusive of duty. Leaving aside the area of defence, which I will come to in a moment, if a public agency in the United States puts out tenders, the imported product has to be either 6 or 12 per cent lower than the domestic U.S. product, even after the customs duty has been paid. That is the general case.

I mentioned the U.S. defence case more as a question of record than of practice because, as you know, under the defence-sharing arrangement, we have an exemption from the "buy American" provisions for all of those products that fall under the purview of that arrangement. There are some defence products which are excluded from that arrangement, such as clothing and some of the materials. Most equipment is included in the defence-sharing arrangement.

Senator Grosart: All of the hardware is included in the arrangement?

Mr. Burns: That is right. I am not sure as to whether or not our system has been published in any particular way.

Senator Grosart: Has been leaked.

Mr. Burns: I think there was an OECD document of some years ago which, at that stage, indicated what the provisions were. If you wanted to pursue that, perhaps you might want to call on an official of the Department of Supply and Services, which is really much closer to this kind of thing that we are.

Senator Grosart: All of these questions of comparatives must have come up in your negotiations with your opposite numbers in the United States. Would you say that the restrictive levels, on balance, vis-à-vis exports and the procurement laws and practices of the two countries are about even?

Mr. Burns: If I were to make a general observation, I would have to say that they are a bit more restrictive in the United States than in Canada.

Senator Grosart: That raises the question, of course, of provincial and state non-tariff barriers. One which concerns the Americans very greatly on our side, of course, is the provincial markups on liquor. Are there other provincial non-tariff barriers? I know there are state ones.

Mr. Burns: That is the principal one that has been identified by our trading partners.

Mr. Kelly: There are also provincial regulations which come into play in respect of breaking of bulk and mixing. In the area of mixing, there has to be a certain percentage of Canadian alcohol used.

Senator Laird: Is that the reason for taking a special position on the importation by the United States of bottled Canadian whiskey?

Mr. Kelly: No, that is not the reason for that. In answer to your question, senator, the United States tariff provides for a duty to be applied on whiskey on the basis of proof gallonage on anything that is first proof or above. On products with a proof of less than first proof, the duty is based as if it were first proof. The net effect of that is that one pays the tariff both on the alcohol and the water when importing in bottles.

Mr. Burns: When you import bottles, you are paying on the alcohol and the water, and when you import barrels you pay only on the alcohol.

Senator Grosart: Has the liquor NTB, to the extent that it is obviously a tariff, ever been tested in the Canadian courts on the ground that it is ultra vires?

Mr. Burns: I do not think it has ever been tested in the courts. There is a federal tariff on imported wines and spirits.

Senator Grosart: There is an excise duty and excise tax.

Mr. Burns: That is right. Then, of course, the monopoly suppliers, presumably, have their rights to apply markups in pursuit of property and civil rights, I suppose. You are now going to get me into an area about which I know little. The short answer to your question is that I am not aware of any court cases relating to the provincial markups on liquor.

Senator Grosart: The reason I raised this matter is that from the American point of view, from some of our recent experiences—and the chairman shared one with me, anyway—the Americans are very concerned about the provincial jurisdiction impinging on bilateral arrangements of various kinds negotiated at the top government level. That is why I am wondering whether there are any other provincial NTBs of any significance. In any event, you say not.

Mr. Burns: I think there are probably some procurement arrangements that are much the same.

Mr. John F. Donaghy, Chief, Gatt Division, Department of Industry, Trade and Commerce: There are certain standard requirements that are administered at the provincial level as well.

Mr. Kelly: The provinces would administer hydro test standards as well as labelling requirements.

Senator Grosart: I suppose we would have some problem with the Province of Quebec labelling regulations.

Have there been any complaints concerning the bilingualism requirement of labels in the province of Quebec?

Mr. Kelly: The United States has complained about the proposed implementation of bilingual labelling requirements in respect of bulk merchandise.

Mr. Burns: That is bulk merchandise as distinct from goods imported in the form in which they would be used by the final consumer.

Senator Grosart: There seems to be a large group of these NTBs that are applicable only in the agricultural sector. We know that agricultural trade between Canada and the United States represents a comparatively small proportion of the total. Are there substantial irritants on both sides in this area?

Mr. Burns: If you had asked me that question two years ago, senator, I would have been forced to say yes. In reply to that question today, I am not aware of any current problems in the field of agriculture. Both the meat and egg problems have been settled, those having been the two major issues.

Senator Grosart: Temporarily, at least.

Mr. Burns: I suppose one always has to say that nothing is permanent. They are no longer issues as between Canada and the United States.

Senator McElman: Mr. Chairman, another provincial NTB that has been used on occasion, and threatened on others, by certain of the provinces, has been with respect to raw pulpwood and raw lumber. That is one non-tariff barrier certain of the provinces have used in the past and, more recently, suggested they might use if stumpage rates are added at the provincial level for products that are to be exported abroad, which they really need to maintain within their own jurisdiction for production purposes.

Mr. Burns: It is correct that in the log trade there have been longstanding arrangements of different kinds with a number of provinces, which have had as their object the prohibition or very close control of the export of logs in their raw form. To the extent that our trading partners would want to get access to logs, that is no doubt looked on by them as a non-tariff measure.

Senator Grosart: I am a little concerned that we have had an indication of some, and no doubt the major, possible irritants between the two countries, or just straight barriers to the free flow of trade. There are a great many others that come up in the "black book", many of them United States complaints to GATT about our non-tariff barriers that have not been mentioned.

Mr. Burns: May I see one of those books?

Senator Grosart: Perhaps you would look at the ones at the bottom. Those are specifically Canada-U.S. The first one is the film industry. I think the second is on United States tax rebates.

Mr. Burns: Perhaps I might ask Mr. Elliot if he would comment on what these are about.

The Chairman: Would it be of assistance, Senator Grosart, if you have some specific questions on these books, if Mr. Elliot takes a few minuttes to look through them, and meantime we could go on to something else?

Senator Grosart: I think that would be a good idea. Perhaps Mr. Elliot would select a few and give some comments on them.

Senator McElman: For the information of the committee, what are these books?

Senator Grosart: This is the GATT summary of all complaints made, one nation against another. The date is 1974. This is the basis of the often quoted statement that GATT found 800 non-tariff barriers operating between nations. At the moment there is some dispute as to whether it is 800 complaints or 800 actual cases.

Senator Rowe: Is that over a period?

Senator Grosart: That is up to the time GATT started to study this and called for these complaints, and then began to consolidate them.

Mr. Geoffrey Elliot, Director, General Trade Policy Branch, Department of Industry, Trade and Commerce: Perhaps I could say a few words about what the books are. In fact, they are the result of a study undertaken by the GATT in the context of preparation for the current round of multilateral trade negotiations. As you know, non-tariff barriers were not an important element in previous negotiations, and, for the same reasons that Mr. Burns mentioned a while ago, with the progressive reduction in tariffs non-tariff barriers became more and more evident and important in terms of their distorting effect on trade. Therefore, this time around it was decided and agreed that this multilateral trade negotiation should attempt to deal with non-tariff barriers.

The first problem is that many non-tariff barriers are just not known; countries do not maintain schedules of non-tariff barriers.

Senator Grosart: No.

Mr. Elliot: You only get to know what a non-tariff barrier is when a company complains about problems it is facing in its efforts to penetrate a foreign market. Therefore, a few year ago we canvassed Canadian industry about the problems they were encountering in their efforts to export to foreign markets; we assembled a list and transmitted the list to the GATT secretariat. The same procedure was followed by other countries who are participating in the negotiations. The result at the end of the day was that the GATT secretariat assembled these five lists or books full of non-tariff barriers.

The primary objective of this was to find some factual information data base so that we could proceed with the negotiations on non-tariff barriers in this round of trate negotiations. Many of the non-tariff barriers that are contained in this list are not new non-tariff barriers, although the books are dated 1974. Some of these non-tariff barriers probably date back for years and years.

Senator Grosart: I agree.

Mr. Elliot: It is just that this is the first time any systematic effort has been made to put them together.

Mr. Burns: Let me mention one, which is an interesting one. In the 1920s there had been a trade in fluid milk and cream from Quebec and Ontario into New York State. In the 1920s New York State passed some regulations that milk could be supplied for human consumption in that state only from farms that had been inspected by New

York State inspectors. New York State inspectors were not about to cross the border to examine farms in Quebec or Ontario, and that rather sharply eliminated that trading possibility. That has been on the books, in my memory, since about 1924 or 1925. That is obviously a very effective non-tariff barrier, because there has been no trade in fluid milk since then. There are all sorts of things of that kind that have grown up over many years, and which have an impact on our trade.

Senator Rowe: Did you say that was New York State?

Mr. Burns: Yes.

Senator Rowe: It was not national?

Mr. Burns: No.

Senator Grosart: Nevertheless, my recollection of the terms of reference of GATT to countries who were asked to schedule their complaints is that they asked for those which were currently operative. I agree they are not all new. However, my cursory examination suggested to me that many of them are new, emanating from very recent legislation and regulations. However, this will come up later.

The Chairman: Senator Grosart, I will go on with other questioners, and if you will confer with Mr. Elliot we will come back to you.

Senator Grosart: Let me just read the titles of the five books, because this is the GATT general classification following on what Mr. Burns has given us. The first is "Government Participation in Trade", the second, "Customs and Administrative Entry Procedures"; the third, "Standards Involving Imports and Domestic Goods"; the fourth, "Specific Limitations"; and the fifth, "Charges on Imports."

Mr. Burns: I would like to make one observation at this point. I think that if you look at the headings and compare them with the description of the principal non-tariff barriers that were included in my opening statement, they would cover pretty well all of those.

Senator Grosart: They would.

Mr. Burns: In other words, they are grouping things.

Senator Grosart: Everybody who has studied it starts by grouping them. Some have five groups, some have twenty. I just say that that is the GATT groupings.

Mr. Burns: If we are going to deal with each of those, perhaps my guess of seventeen times may be increased a little from my first meeting with you.

Senator Grosart: I am sorry to take up time, but I will pass now.

The Chairman: We will come back to you, Senator Grosart, and Mr. Elliot, when you may have some comments on it, or a number of others you are interested in.

Senator McNamara: I have two brief questions. In discussing these non-tariff barriers between Canada and the United States, and realizing the volume and importance of American trade, I wondered if you had had similar problems with other major trading nations in the past, such as Japan, the Common Market or the United Kingdom; or is it more a problem related to American trade, considering the volume?

Mr. Burns: One can certainly say that the question of non-tariff issues is not unique to Canada-U.S. trade. It is very much an element of our trade relations with our other major trading partners. I mentioned earlier the problems of agriculture in relation to the Community. A particular situation of which Senator McNamara is very well aware, the export restitution procedures of the Community in subsidizing exports of such products as barley, at one stage I remember that their subsidy on barley being shipped from the Community to Japan was greater than the f.o.b. price which we might get for our barley out of Vancouver. That kind of non-tariff barrier is, of course, a very important issue and one which we will be giving a lot of attention to in the multi-lateral trade negotiations.

The Chairman: Senator McNamara, my recollection of Mr. Burns' earlier testimony on the point which you have raised is that while it is difficult to be precise, it is a very broad statement that our NTB problems with areas other than Canada-U.S. trade would probably, if anything, be more pervasive than in Canada-U.S. relations. Is that not approximately what you said?

Mr. Burns: That is correct.

Senator McNamara: I was not thinking of agricultural products.

The Chairman: His overall remarks were to that effect.

Senator McNamara: The manufactured goods, with Japan, for example, do they also have a number of non-tariff barriers against our trade on non-manufactured goods?

Mr. Burns: Let me take another example from the non-agricultural sector. If one were to look at government procurement practices among our major trading partners, the Americans have discriminatory legislation in favour of domestic products. That is, by and large, published information. In other words, Canadian exporters can judge whether they will meet this requirement of being 12 per cent better than the domestic price. When you look at procurement practices in Europe or in Japan, you will find that there are no published regulations. It is very much a matter of administrative discretion and, indeed, the opportunity to sell imported goods, against domestic goods in government procurement tenders, is much less possible in the countries of the EEC and Japan that it is in the United States. That is one general example of a non-tariff issue. It is more difficult for us in those other two areas than in the United States, I think.

Senator McNamara: I have a question in relation to the DISC. Are the provisions of the original DISC still in effect? Did it have a major effect on Canadian exports as compared with the U.S.? I was hoping that it might alert the Canadians to start broadening their vision insofar as markets in other countries are concerned, and not leave too many eggs in the one basket. Did it have an effect?

One forther matter with respect to the DISC, is there a life period for the DISC law or is it a permanent regulation?

Mr. Kelly: It is indefinite; it could be closed off, but there is no set date for it.

Senator McNamara: Does that require congressional acton to close it off?

Mr. Burns: There has been some discussion in the Congress on the desirability or otherwise of continuing the DISC. I think from the U.S. Treasury point of view, if I understood it correctly, they are saying this is too rich a piece of legislation; it reduces the take of the U.S. Treasury. There are other domestic arguments going on in the United States about the DISC.

The Chairman: I had a note to ask a question about the DISC later on, but since Senator McNamara has raised the point I might interject it here so that it will be in the same part of the proceedings.

I have heard it expressed that the DISC is really more expensive to the United States than its trading partners in some respects. What is your comment on the Canadian government reaction of setting up a special fund, for Canadian manufacturers to draw against if they were damaged by the DISC? I believe it was really only used to a small fraction of its total amount. In other words, the applications by Canadian manufacturers, who could establish or claim they were badly hurt by the DISC, were much less than the government anticipated.

Mr. Burns: May I just go back to the 1971 situation for a moment? A number of things happened then. One of the actons taken by the United States was, of course, to put a surtax on a large proportion of their imports. It was a 10 per cent surtax, at about the same time they established the DISC legislative provisions. If one looks back on that, I belive you will find that the government took action relating to both of those situations.

In terms of the surtax, there was legislation passed in September, 1971 which was called the Employment Support Act. That was the legislation under which funds were provided to companies where employment suffered because of this surtax action taken by the United States.

The reaction of Canada to the establishment of the DISC was, if you remember, the change in the income tax provisions which reduced the general level of corporate tax for processing and manufacturing industries from 50, or whatever it was, to 40 per cent. Therefore, the fund you mentioned was really in terms of the surtax which was thought of to be a temporary provision, and, indeed, it was eliminated at the end of 1971. The response to the DISC was really the change in the general tax level applicable to processing and manufacturing industries.

The Chairman: Thank you for that very clear explanation. It clarifies my mind, which was fuzzy on that subject.

Senator Carter: I had the impression that when the DISC came into force it took us by surprise; there was no consultation about it, and our fellows rushed off to Washington. Did they not work out a special agreement? Wasn't some exemption worked out?

Senator Grosart: No. That was the good old days, when we got exemptions from them.

The Chairman: The special relationship had come to an end at that point, Senator Carter.

Senator Grosart: Isn't it so that the impact of DISC, as a restriction on Canada-U.S. trade, from our point of view, turned out to be far less onerous than was anticipated at the time?

Mr. Burns: If I could just talk about the DISC a little it might help. Its provisions have really enabled U.S. exporters to do one of two things—and, of course, this does not apply to their business in the United States. It will enable them, in some circumstances, to quote lower prices in their export markets than they would ordinarily provide, because the tax situation is a quarter or a half reduced. Therefore, the one potential result of this might have been, in the Canadian market or in third markets, that U.S. sellers would have been more competitive pricewise than they would otherwise be. The second potential result would be that the operations of the DISC generate more investment funds for American producers than they would otherwise be able to generate. What it did was indefinitely defer an income tax liability, and that cash flow accrued to the corporation to do the two or three things that I have described.

The Chairman: Would you classify that latter item as an NTB?

Mr. Burns: I suppose so. You could certainly argue that as between a Canadian manufacturer and a U.S. manufacturer engaging in the export business, the extent to which the American manufacturer has more funds with which to invest and grow and become more efficient, gives him an advantage over the Canadian in a third market.

Senator Grosart: Except that we did exactly the same.

Mr. Burns: We have used quite a different technique, senator.

Senator Grosart: With the same result, however. We gave a lower corporate tax rate to manufacturers in processing.

The Chairman: If you carried that thinking process too far, you could argue that a country, for instance, that has a policy of introducing interest rates was making capital formation easier in the country, and this was an NTB. At some point you have to stop, surely?

Mr. Burns: The argument, I suppose, that you would use is that the DISC is established solely in relation to American exports.

The Chairman: Yes, I understand.

Mr. Burns: Therefore, it provides differential treatment in favour if exports and, therefore, you are viewing it as a subsidy.

Senator Grosart: On this very point, Mr. Burns, is there a difference, in negotiation attitudes between Canada and the U.S., between what I will call "intentional" and "unintentionl" NTBs? By "unintentional" I mean the ones that you refer to where the spinoff of an act of Parliament or regulation intended for another purpose has not become an NTB. Is there a different attitude towards these in negotiations?

Mr. Burns: I suppose one cannot make a generalization in that regard, senator. However, clearly in the Canadian case if one of our trading partners was able to demonstrate that a law or regulation passed for purely domestic reasons had very substantial impact on the trading partner's interests, that would be viewed in a different way than if a regulation had been passed with the specific purpose of having an impact on our trade.

Senator Grosart: On the other hand, the GATT qualifiers, of which you mentioned a number, seem to be very imprecise and do not seem to cover all these unintentional or justifiable ones.

Mr. Burns: No; at the beginning I was trying to indicate, senator, that there is a series of circumstances in which it is perfectly legal to have a non-tariff barrier. The argument then is, is it a sensible reaction to the kind of condition described in the relevant article of the GATT?

Senator Grosart: Yes—does it meet the conditions?

Mr. Burns: There can be arguments about that. For example, in the egg case the Americans took us to the conciliation procedures of the GATT. They asked two questions: (a) Did we have a supply-management system and were we therefore able to use Article XI? (b) If we had that, have we provided the right kind of import quota for them into the Canadian market based on that? The results of that examination by an international working group were, (a) yes, we did have a supply-management system; and (b) we might look to see if the actual sort of level of imports that we had provided originally was really the right one and they suggested a somewhat larger import quota. So that is the kind of situation we get in terms of legal non-tariff barriers.

Now, there are all sorts of non-tariff barriers which are either illegal or have never been tested in the GATT. For example, there is a panel in the GATT, which will meet this week, examining the DISC, in which a group of the countries which are concerned with the impact of the DISC will be talking with the United States about how they would justify DISC under the provisions of the GATT.

Senator Grosart: I will not ask how many illegal ones we have.

Senator McElman: As I understand it, during the debate that has been going on for some time in the Congress, those who are trying to bring an end to DISC are suggesting that its basic purpose was to increase the level and volume of exports by the United States . . .

Mr. Burns: Yes.

Senator McElman: —thus increasing employment in the United States through greater exports. However, its opponents are now claiming that too many U.S. companies have not reduced their prices substantially, but have used it simply to improve their own profits substantially, thus enhancing their capital position. In fact, some congressmen have been referring to it as, "Nothing but a damn rip-off".

The other point I would like to raise, Mr. Chairman, is opposed to the proposition you put forward, that DISC had not had much effect in Canada because not too many applications for assistance had been made in Canada. There reportedly has been a report made by the U.S. Treasury Department that in 1973 Canada had received almost $4 billion worth of DISC supported exports, which was far more than was received by any other of the U.S. trading partners. That is in a *Globe and Mail* story, and I do not know whether it is accurate. Is it accurate?

Mr. Burns: Mr. Chairman, I do not have in my head the precise figures, and I am not sure if we have seen them. However, I can certainly confirm that it is our understanding that most of the principal exporting companies in the United States have indeed formed domestic international sales corporations and since we are the largest trading partner of the Americans, it would follow that the statement you make is correct, that more DISC-supported sales were made here than in other parts of the world. However, I tried to distinguish the two potential effects of the DISC: one, the reduction in prices; the other, the increased profits. It is my understanding and I am not a very great expert in this, that the experience has been the one that you describe, that the principal benefit taken by U.S. exporters has been in terms of the capacity to dispose of greater resources financially, either in profits, expanded production, investment or what-have-you, rather than on the price side.

The Chairman: They would not have had to reduce their prices greatly, Senator McElman, to get below ours.

Senator McElman: Well, let me say that I was just proposing that as a countervailing argument to yours.

Senator Carter: Most of my questions refer to DISC and have now been answered. I believe, Mr. Burns, that you started by saying that as tariffs became reduced the more prominent non-tariff barriers became.

Mr. Burns: Yes, that is correct, senator.

Senator Carter: And they, in effect, negate the benefits of a reduced tariff to some extent; they offset whatever benefits might have accrued. Would that apply also to goods imported free of duty into the U.S.?

Mr. Burns: I think that really depends on the products concerned. When you describe the situation that has developed, leaving aside the argument I had with Senator Grosart as to whether there has been a vast increase in this, but assuming that there has not been, if there has been a level of both tariffs and non-tariff barriers, then as tariffs go down the total barriers against the trade begin to diminish. However, people are much more conscious now of the non-tariff issues that are involved. I do not think it is possible to say whether non-tariff barriers are discreetly different on duty-free goods than they are on dutiable goods. The duty-free goods, of course, have a much easier time going through customs, so all that panoply of problems related to customs administration and valuation do not apply to duty-free goods. Some of the others will, of course.

Mr. Elliot: Possibly product standards could be used as an example. I do not have a particular example of a product which is allowed duty-free entry, but for which there is a mandatory product standard. However, supposing there were a situation in which the U.S. tariff is free but they also have a product standard to which foreign suppliers must adhere and must obtain certification that their products adhere to that standard. If a Canadian producer or manufacturer for one reason or another, were not able to produce his product in a manner which would conform to that standard, or were not able to obtain certification that his product adhered to that standard, that duty-free tariff is really irrelevant, because his product in theory is totally excluded from the market. That is a theoretical situation, but it could apply to a duty-free product.

Mr. Kelly: If I might give an example—if you want an example of a free one—it would be the case of lumber, which is a very important export to the United States. There are building code standards, standards for the lumber, and grading or sizing type of standards that apply to these free goods; so that your goods have to meet these standards in order to be able to be sold in the marketplace.

The Chairman: To say nothing of the lumber marking bill that was threatened ten years ago.

Mr. Kelly: They were going to try to apply country of origin marking to Canadian lumber, yes. We had been exempted from marking under the trade agreement of 1938. That part of the agreement was carried forward into the GATT, and we used it to have the United States move away from requiring that our lumber be marked. There is no marking requirement now.

Senator Grosart: Could I ask a supplementary there? Is it true that the temptation to use non-tariff barries tends to be greater in the duty-free areas than in the others, other than that one category of customs procedures and practices?

Mr. Kelly: If I might respond very very generally to this, I would say that where you have duty-free merchandise going into the United States it is generally because it is a required product. They need the product, and that is why the tariff is free and has been negotiated down. Obviously, if they are removing the tariff impediment to the trade they are also looking at removing other impediments if that product is needed; so generally you would find a higher incidence of non-tariff barriers applying against the more processed goods, such as manufactured products, than you would, generally speaking, with regard to resource materials that move free.

Senator Grosart: Could I then come back to the substitution question, which is very much under discussion internationally? Can you think of any products in Canada—U.S. trade which would provide a clear example of the substitution of a non-tariff barrier for either a duty-free status or a Kennedy Round decrease in tariff? I am referring to clear examples of using a non-tariff barrier as a substitution for a tariff barrier or a lower tariff barrier.

Mr. Burns: Senator, I would like to take that question as notice, and I see all my colleagues are having the same reaction that I have. I do not think we could find any significant individual item where that has been the case.

Let me go back to something I said earlier. It has been true since 1971, when the Americans were so concerned about their balance of trade position, that the customs administration has been carried on in a more zealous way than it was for the five or six years before that, and I suppose you could argue that that arose from a number of reasons, one being the very clearly expressed desire of the United States to shift its balance of trade problem. Another reason, I suppose, that you could enunciate, is that that was the period during which Kennedy Round reductions were going into effect. If you wanted to make that statement, that would be a case in point. I would have thought, though, that the reality of the situation was in fact the reality of the 1971 crisis that the Americans perceived.

Mr. Elliot: May I give an example? I am not sure this example is related to the Kennedy Round, but it is related to a reduction in tariff. This would deal with newsprint exports to the European Community. Our primary newsprint exports were always to the United Kingdom, and as a result of Britain joining the Common Market, the Common Market tariff, which was a 7 per cent tariff, subject to a duty-free quota, was applied on our exports of newsprint to the United Kingdom. That quota, as a result of negotiations we carried out under the GATT, pursuant to the Community's GATT obligations in the context of enlargement, was expanded to take into account Canada's traditional exports to the United Kingdom; but a problem relating to the definition of newsprint emerged subsequently, and it is now a requirement that newsprint entering into the European Community be marked with some kind of a water lining. This is a requirement that can be adhered to by Canadian producers of newsprint, but one of the factors involved is that in order to water line newsprint you have to run the machines more slowly. This increases the cost of producing the newsprint, and therefore the domestic producers of newsprint in the Community, who are not required to water line their newsprint, receive a production cost advantage, which has an impact not dissimilar to that of a tariff. This is a factor now facing Canadian exporters. At the moment there is a derogation from it, but it may well be a technical requirement, or NTB facing Canadian exporters of newsprint to the British market in a few years' time which was not facing them before.

Senator Grosart: Was that an intentional NTB, or was it a spin-off from a domestic requirement?

Mr. Elliot: Well, the waterline requirement in the Community of Six probably was an intentional one. The fact that it was not dealt with at the time of the British entry, in terms of our traditional trade with Britain, may well have been an accident.

The Chairman: Those would be the GATT Article XXIV:6 negotiations that you were mentioning. The quota was increased.

Mr. Elliot: Yes.

Senator McElman: The witness said, did he not, that the European suppliers are not required to waterline?

Mr. Elliot: That is right. It is a waterline requirement that is required only in the case of imported newsprint, because it is prescribed in the tariff. If the newsprint does not contain a waterline, then theoretically it would enter under another tariff item, which would have a higher rate of duty.

Senator Carter: I take it, from what you have said, that taking an over-all view, the impact of non-tariff barriers would be likely to be greatest on manufactured goods going into the United States, and least on raw materials. Would that be a fair statement?

Mr. Burns: As a very broad generalization, I think that is right.

Senator Carter: Can you identify other categories on which the impact is significant?

The Chairman: Could we add the word "processed" to "manufactured"?

Mr. Burns: I think, Mr. Chairman, that if you go back to the descriptions that we gave a little earlier, there are classes of goods that face substantial non-tariff barriers. Let us take the class of goods traditionally bought by government agencies; for example, any federal government procurement in the United States of hydroelectric equipment. Any exporter to the United States faces automatically an additional barrier of between 6 and 12 per cent. That whole category of goods faces that kind of barrier. If you look at the differential treatment on all of these consumer protection things now, where each import is looked at in terms of labelling, or in terms of meeting

consumer protection requirements, as against the rather more catch-as-catch-can spot checking of domestic products, I suppose you can then say that anything in that category faces some potential barrier of a non-tariff character. Then if you focus right in on some other things, the manufecting clause, for example of the United States copyright law is a very precise problem posed for Canadian printers and publishers. It is hard to make generalizations about this, but those are categories that are affected.

Senator Grosart: I wonder if Senator Carter would mind yielding—as they say in the U. S. Senate—for a moment. I have to go to another very important committee, and I would, if possible, like to be here when Mr. Elliot replies to the questions I asked about complaints from the GATT. Do you mind, senator Carter?

Senator Carter: Not at all.

The Chairman: We will come back for a moment, Senator Carter, Senator Grosart, if you would be so kind, and deal with the questions he would like Mr. Elliot to answer, giving some examples from "black books"?

Mr. Elliot: We just made a quick skim through the "black books", and one of the things that was very apparent was that the items involving Canada—U. S. trade that Senator Gorsart mentioned were, generally, items that in one way or another had been covered in Mr. Burns' earlier presentation. I thought it might be helpful, however, to run through a number of examples, some of which have been mentioned before, some of which have not, but which indicate not only the Canada-U. S. dimension, but also the fact that some of these NTBs were identified in the interim by other countries, either as a notification against Canada or as notification against the United States.

The books are divided into generic kinds of NTBs. The first one, under the quota restriction type of NTB, Mr. Burns mentioned earlier. It covers our problem with the United States in copyright legislation. This non-tariff barrier was identified in the inventory also against the United States by Switzerland and the European Community. The United States identified against Canada an NTB involving the content requirements for Canadian television programs. The United States also identified against Canada as an NTB the prohibition on the importation of used aircraft and some used automobiles.

Another of the "black books" deals with government regulations and this really relates to subsidies of one kind or another. The United States has notified against Canada as an NTB, a subsidy applied in this country, or available at least, to film producers. Canada has identified against the United States as a non-tariff barrier Western Hemisphere Trading Corporations. This is a tax benefit scheme applied to American companies engaged in business activities in the western hemisphere. The DISC was notified against the United States by Canada, the European Community, Japan, Switzerland, and the liquor control boards in Canada as an NTB were notified by Brazil and the European Community, as well as by the United States.

On customs procedures, the U.S anti-dumping procedures were notified as an NTB by Canada, the European Community, Japan and Switzerland. Canada was identified as having an NTB in the form of the operation of our customs valuation system which in some cases resulted in arbitrary valuation rulings. This was identified by Hong Kong, Japan, as well as the United States.

A United States customs measure was identified also by Austria, Canada, U.S.A., Japan, EEC and Switzerland, and this is a customs invoice form which these countries have identified as being unnecessarily complex in that it is one that requires a country to provide information not really relevant to the customs transaction.

A number of product standards have been notified in the inventory against the United States. These are standards on plumbing, heating, fire-fighting and electrical equipment and they have been notified by Canada, Australia, the European Community and Japan. These standards were identified as being unnecessarily complex with high charges involved in adherence to the standards. Furthermore, their application was notified as being uneven between various U.S. states. Another U.S. standard identified in the inventory by Canada, the European Community and the Nordic countries relates to coastguard safety equipment. This is a rather interesting one in that it is not ncesssarily a problem of adhering to standards, but U.S. regulations require that the products be inspected at the manufacturing state in the plants of the producers. However, the U.S. will not allow inspectors to leave the United States to do the inspection. So in effect that becomes a prohibition. Another standard which was notified against Canada by the United States relates to can sizes.

Senator McNamara: Did you say can sizes?

Mr. Elliot: Yes.

Senator McNamara: Is that related to the conversion to the metric system?

Mr. Elliot: I am not sure, but it relates to the specific can sizes that are insisted on in Canada as compared to can sizes that are used in the United States.

Senator Laird: Mr. Chairman, I have to go; I am in the same boat as Senator Grosart. Could I ask one question?

The Chairman: Certainly.

Senator Laird: I hope this point was not covered while I was out. We understand the special position dealing with the quota problem which exists with the textile industry. Would mechanics like that be successful with any other products, or should the whole picture of quotas be dealt with in GATT negotiations, in your opinion?

Mr. Burns: I think one should start with GATT. The GATT requires that the signatory countries regulate international trade fundamentally in terms of customs duties, and that quantitative restrictions of quotas are admissible only in very special circumstances. I tried to outline some of this at the beginning of the presentation. As a derogation from that general statement in the GATT, there is an international agreement which has been signed by all the principal trading countries in the GATT which allows for quantitative restrictions in the textile trade. If I were to follow what you were saying correctly, you were really asking would it be sensible to change the generality of the GATT provision and allow countries to regulate trade on the basis of sometimes tariff duties, sometimes quotas or perhaps a combination of those. I think it is the general judgment that if you start down a track of allowing countries to apply quantitative restrictions in any broadly cast manner, you are liable to run into very severe limitations of the degree to which trade can be liberalized.

Senator Laird: I suppose that in that connection one has to keep in mind that textiles are in a special category, in

that they can be fabricated in underdeveloped countries, whereas other products like machine tools, and so on, simply could not be produced in an underdeveloped country, and therefore textiles are in a special category by themselves.

Mr. Burns: It would have been possible, I think, for most of the principal importing countries of low-cost textiles to establish quota restrictions on textiles because of the ability to invoke Article XIX of the GATT, which is the one which allows you to take temporary escape action if your domestic industry is being substantially injured by imports. But because this was such a generalized problem, it was agreed among the principal trading countries that it was better to try and arrange a system which permitted some growth in imports from the low-cost suppliers, because of their position as Third World countries, rather than to get into a patchwork of escape actions taken individually by the major importing countries. I do not think that kind of situation applies in any other sector of world trade.

Senator Grosart: It has been said that two of the attractions of NTBs are: one, that they are often more effective; and, two, they can be applied more immediately.

Mr. Burns: And they can be hidden better.

Senator Grosart: Would you agree generally that those may be characteristics in some cases?

Mr. Burns: I think so, yes.

Senator McElman: Mr. Chairman, the United States and Canada are both producers of atomic energy plants. They are in very tight competition throughout the world. In what way—getting away from the world trade aspect, and there are billions of dollars involved—are they protecting one another from the sale of CANDUs in the U.S. and the sale of U.S. produced plants of a different type in Canada?

Mr. Burns: I do not have an adequate answer, Mr. Chairman, except to draw attention to the fact that in this area the safety regulations, and the general regulations of our atomic energy authorities and the United States atomic energy authorities, have quite an influence on the fact that there has not been anything in the way of substantial interchange. I will take notice, if I may. I think I can supply some information on that.

Senator McElman: It would be rather broad to classify these as non-tariff barriers.

Mr. Burns: I think they prohibit the trade. They have that effect.

Senator Rowe: You mean trade between the two—between us and them?

Mr. Burns: Yes.

Senator Carter: If I understood you correctly, Mr. Burns, you stated earlier that a particular firm exporting a particular product into the United States, and coping with this mass of NTBs, might get a particular ruling. It might be favourable or unfavourable. The company might get some preference. But that might not necessarily apply to another company, even if manufacturing the same product.

Mr. Burns: Yes.

Senator Carter: So that each one has to be dealt with on its merits, regardless of the class of goods, similarity of product, and so on.

Mr. Burns: Yes. I would ask Mr. Kelly to speak about that.

The Chairman: I too would like to have that point developed a little further, because I was quite astonished by your evidence on that.

Mr. Kelly: Mr. Chairman, I might explain a little about how the Unites States customs ruling system works. There are problems within the system itself because of the way the administration look at its own rulings, as opposed to how the courts look at rulings given by the administration. The administration, for example, will say, "Rulings that we give, we will back up." The courts say, "A lot of the rulings that you give are not valid because you have not got the authority to give this kind of a ruling."

Leaving that aside, the United States customs now say, "If we rule on your product, you will be protected to the extent that we can protect you under the law." For example, under American customs procedures there could be a complaint by an American manufacturer. That is known as the American manufacturers' protest system. The manufacturer can ask what tariff classification, for example, has been assigned to certain Canadian goods going into the United States. If he does not think it is right, he can refer the matter back to the customs, either himself or through his attorneys, and submit that that is an incorrect classification. If the United States customs, as a result of the complaint, decide they are going to consider the question of changing that classification, they will publish a notice that they intend to do so. Interested parties will then have an opportunity of debating the question and putting forth their views, and if, at the end of the day they decide to change that particular classification and there is an official ruling, you have a 90-day period in which to adjust to the new rate before it is put into effect. If you do not have a ruling, you have no protection, because nowhere has the United States customs guaranteed that that was the rate to be applied to your product. That is why in this situation we encourage Canadian exporters, and even though we tell them what will be the rate of duty on their product—we give them this information in advance of shipment, because of the time lag in getting an official ruling from the U.S.—we still say, "We will go ahead and get that ruling, because that is what you need for your protection."

Senator McNamara: If company A applies, can I also be represented at the hearing for my product and in that way be covered by the ruling for company A?

Mr. Kelly: If I may say so, you have not got a ruling. You could appear, or make a presentation to the body which is reviewing the decision, but you do not have protection, except to the extent that you are able to convince them that the ruling should not be changed. If it is not changed, that is the protection that you would get.

Senator Carter: Once a company has succeeded in exporting and getting a ruling, and, say, in six months, he wants to export again, is that ruling valid? He does not have to reapply, does he?

Mr. Burns: Not each time . . . not unless you get into the situation that Mr. Kelly is talking about, where there is some question as to whether the initial ruling was the right

one or not. It does not apply to fish blocks, for example. It really only applies to sophisticated products generally, where there can be some argument as to whether it falls into this, that or another category.

Senator Carter: I understood it could apply also to the labeling on the outside.

Mr. Burns: That is under different legislation and different administration.

Senator Carter: The same thing applies. A ruling with respect to labeling on one package for one company would not necessarily apply to another company even if there were similar labeling.

Mr. Kelly: Mr. Chairman, if I might expand on that. When you have labeling regulations, it is pretty well spelled out in the regulations exactly what are the requirements. For example, they may say that you have to name the country of origin. They may say that if you list the ingredients, they must be listed in accordance with the most prominent ingredient in descending order; that the weight of the product, if it is over a pound and under two pounds, must be expressed as one pound and so many ounces, and that you cannot use 1.25 lbs, or something like that. They specify that certain things will have to be met. The question there is, does your label meet that particular regulation? If it does and that regulation is not changed, then, of course, your label is acceptable and your product will move into the United States without any encumbrances because of that particular law.

Senator Carter: For the same company.

Mr. Kelly: Yes. Those regulations are general. It will say the type size that must be used, the prominence that must be given to certain of the claims for the product, whether you can make certain claims for your product, and so on.

Senator Carter: If three different companies were exporting a similar product and packages with similar labels, the first fellow who gets in may get a ruling; but that ruling would not necessarily apply to numbers two and three; each one would have to get a separate ruling. Is that right?

Mr. Kelly: Let me put it in a slightly different way. If I have a ruling and I am sending my product into the United States through various customs ports of entry, they will be aware of the ruling and there will be no problem. It may be that you, as a competitor of mine, has a label which is identical in all respects. There might be some change in colour, or something like that. You may get questioned. But if my label meets the regulations and yours is the same, yours will also meet the regulations. What we were talking about earlier in terms of rulings was the customs rulings of the tariff classification of products. It was confined to that.

Senator Carter: One further question on these rulings. To what extent does the kind of ruling you get depend upon the official deciding the case? In other words, do these rulings vary from official to official?

Mr. Kelly: Because of the regionalization of U.S. customs, there will be differences in tariff classifications. There may even be differences in the method by which tariffs are arrived at.

Although there is a communications network linking the various regions, one region is not always aware of how another is doing something. They do communicate with each other, however, and there is a central system in New York which the various regions can utilize.

The regional authorities are not permitted to make rulings with respect to new products. If a product has not previously been ruled upon, the ruling must come from headquarters in Washington. The regional authority can make rulings on the classification of similar articles based on an established and uniform practice. However, there is the factor of judgment involved as to how similar the product being ruled upon is to products previously ruled on, so problems do arise.

To cite one example, an exporter sought our advice in connection with the duty rate or tariff classification on a product that he intended to ship to the United States. He was already shipping other products into the United States, and he was wondering whether he would be subject to the same rate on the new product as was being applied against those products which he was already shipping.

On enquiring as to what the present rate was, we learned he was paying 12 per cent when, in fact, he should have been paying 4 per cent. This type of thing comes up fairly often. The exporter had not previously shipped through a port which provided him with the correct rate. He has since received a ruling and is now paying 4 per cent on those products. The new product he intended to ship into the United States was somewhat different and has attracted a rate of 8½ per cent.

Headquarters in Washington only issues rulings in relation to prospective shipments to the United States. If I wanted a ruling now on a product previously exported, it would only be dealt with at the customs port level. If there is disagreement, it can then be brought back through the system to Washington for a final decision and, if you are not in agreement with the decision from headquarters, you can then go before the courts.

Senator MacNamara: Do we have the same system in Canada?

Mr. Kelly: If you have a dispute on a tariff classification in Canada, there is a review system within customs itself. The protest would move through the different channels within customs. If you are not satisfied with the ruling by the Department of National Revenue, you can then take it to the Tariff Board. If you get into a question of law, you might take the matter into the Federal Court.

Senator Rowe: So, the courts on both sides would be available.

Mr. Kelly: Yes. There are review procedures available within U.S. customs. We have made use of that review procedure in getting incorrect rates changed. We have even found some incorrect rates being applied on the basis of official rulings and, again, we have been successful in getting them changed.

Senator Connolly: That might result, of course, from a poor presentation to the customs authorities in the first instance.

Following-up on another point, I would suppose that if a ruling was obtained with respect to a given article, a very similar article with a very similar label—perhaps the only difference being a different trademark—and there was objection to that ruling because it was at a higher rate,

then an argument based upon the previous ruling as to the reasons therefor, as to the similarity of product, in this case, is the kind of thing that you might reasonably expect to succeed when you are applying for a ruling on the second article.

Mr. Kelly: You are absolutely correct in this area, because one of our primary functions in intervening to get rulings on behalf of Canadian exporters is to use the expertise and background information that we have in order to make the kind of presentation that will lead to the most favourable duty rate. We have all the court decisions for 100 years. We have all the treasury decisions covering the new tariff, which was introduced in 1963; we have all the rulings under it. We keep rulings on the previous tariffs, under the Tariff Act of 1930, because in some areas the rules under the Tariff Act of 1930 still apply.

Senator Connolly: It is part of the jurisprudence.

Mr. Kelly: That is right.

The Chairman: Senator Carter?

Senator Carter: Mr. Chairman, I have a number of questions, but I will pass now and come in on the next round.

The Chairman: We have been interrupting you a good deal, and I would just like to give you a little more time.

Senator Carter: I thought other honourable senators might want to ask some questions.

The Chairman: I have Senator Connolly on my list.

Senator Connolly: I think Senator Carter might be allowed to continue. I apologize for arriving so late. Perhaps the point I wanted to raise has been dealt with earlier. I think I will look at the report later, and if I have not got the answer there I will ask Mr. Burns my question the next time he is here.

Senator Carter: Senator Grosart asked about provincial non-tariff barriers in respect of the liquor control boards; Senator McElman asked about lumber; and Mr. Burns cited the New York State dairy regulations as an effective barrier. These states are completely within their rights to create these barriers, but is anything being done, or can anything be done? It does not seem right that a state should be able to disrupt trade which affects the whole nation.

The Chairman: They disrupt it within the nation, quite apart from our export trade.

Senator Carter: I wondered whether anything has been done to cope with this.

Mr. Burns: Let me take the liquor control boards as an example. The federal authorities have had a series of conversations with provincial liquor control boards about the problem of differential mark-ups on imported spirits for a very long time. When we are asked by our trading partners to see if we can do something about this, we of course have a try at it, but it is clearly a matter of provincial jurisdiction. There is no way in which the federal authorities can force the provincial governments to change their practice in that area.

There are circumstances in which it can be demonstrated to the satisfaction of the provincial authorities that it is in their interests to change particular practices in a way that will be attractive to our trading partners, because provinces recognize that these are usually reciprocal arrangements, reciprocal in the general sense, and there are some benefits to be got for a particular province out of a change in practice.

The Chairman: I believe Mr. Elliot has something to say on this.

Mr. Elliot: There is a relevant GATT provision that relates to action taken by junior levels og government which may be inconsistent with a national government's obligation. It is Article XXIV(12), which says:

> Each contracting party . . .

That is, each national government that is a member of the GATT . . .

> shall take such reasonable measures as may be available to it to ensure observance of the provisions of this agreement by the regional and local governments and authorities within its territories.

In effect, there is a "best endeavours" clause.

The Chairman: You say "best endeavours" clause, but the word "reasonable" is used there. So the federal government's best endeavour in Canada might be to use the federal power of disallowance of the provincial statute. I do not think that is what the Canadian government would interpret as being "reasonable".

Mr. Elliot: I think that is right.

Mr. Burns: "Reasonable" is in the eye of the beholder.

Mr. Kelly: In relation to the Ontario sales tax remission on automobiles, it was originally confined to North American type vehicles and then expanded to include the other types of vehicles imported into Canada.

The Chairman: Yes, a very good example.

Senator Rowe: I have a question arising out of Senator Carter's remarks. The fact is, we are all aware of provincial intervention on occasion where the national will, so to speak, has been nullified, negated or frustrated by provincial legislation or provincial regulations, whether it is margarine, eggs or other agricultural products. Is it not a fact though, as far as the liquor business is concerned, that that is one spot when the provinces have restricted opportunities to derive revenue? The liquor business is where they want to have some latitude. They do not want to be hamstrung if, in a hurry, they need to get a few more shekels. They can get them. I saw this demonstrated in the past twelve months, where a province needed cash in a hurry, so overnight, presto, the prices of all liquor went up substantially.

The Chairman: The complaint internationally, as far as being an NTB in Canada, Senator Rowe, is not the level of tax in the provincial liquor boards; it is the fact that they vary the markup very dramatically between domestic products that they purchase, particularly from within their own province.

Mr. Burns: Yes.

The Chairman: It is not an ordinary level of tax.

Senator Rowe: I thought you were referring to the difference between provinces.

The Chairman: The fact they have a monopoly or high taxes is not the problem; it is that they discriminate

against certain types of liquor, particularly imports. For example, imported wines; in British Columbia there are no Californian wines.

Senator Carter: Mr. Burns, in reply to a question by Senator Grosart, you mentioned the Michelin case, where the United States, because Michelin received some federal assistance and it would be exporting mainly to the United States, the assistance was regarded as a subsidy by the United States, and they put on a countervailing tariff. What has happened? Apparently, Michelin has gone ahead and the countervailing tariff has not been much of a deterrent. Can you say what impact it had?

Mr. Burns: The countervailing duty has been calculated on a periodic basis. It has ranged from about 6 per cent originally to about 3 per cent now.

Senator Carter: That is an illustration of the case which you mentioned—as the quantity increases the countervailing rates go down?

Mr. Burns: Yes.

Senator Carter: Apparently, Michelin has been able to produce in quantities sufficient to minimize this.

We also have talked this morning about NTBs against our goods going into the United States. We have not talked very much about what complaints the United States may have against their goods coming into Canada. I don't know if we have time to go into that, and perhaps it should be reserved for another session.

If you can comment on it, though, I would ask a question in that regard. In the United States they have what I think is the Export-Import Bank which is the counterpart of our Export Credit Association in Canada.

Mr. Burns: Yes.

Senator Carter: Are these organizations and their operations regarded by other countries as NTBs in any way? Are they regarded as giving advantages, very much in the way DISC might be doing?

Mr. Burns: Mr. Chairman, the question of export financing can be looked on as a trade-distorting element to the extent, really, to which sales are financed by these kinds of institutions from one industrialized country to another. The reason for that, really, is that export financing interest rates are normally lower than they are for domestic purposes. You can get a situation where manufacturing country A gets export financing for the shipment of machinery to country B, and offers, as part of the package, a financing arrangement supported by the official financing agency of his country that will be a more attractive arrangement than the domestic manufacturer in the country of import can manage. To that extent these are trade-distorting factors, in the sense that competition is not even.

Senator Carter: Could you just say one word about which NTB on the Canadian side gives rise to the most irritation or the most complaints in the United States, or which they regard as the most bothersome?

Mr. Burns: If we go down the list of the ones I mentioned as being of concern to us and the United States, you will find that customs procedures in Canada are the subject of some complaint by a number of our trading partners. One element of this, of course, that is not a United States preoccupation, but is a preoccupation of other countries, is that our tariff is a very complicated one from a classification point of view. From time to time we have had suggestions that we should adopt the Brussels nomenclature, for example, because that would give exporters in other parts of the world an easier time of it than our tariff does. Our tariff is unique in the world.

Senator Carter: I was thinking in terms of Canada-U.S. trade, rather than trade with other countries.

Mr. Burns: In some respects the United States have complaints about that.

Senator Carter: Are our forms more complicated than theirs? I do not see where they would have much room to grumble, in that regard.

Mr. Burns: Well, there is a variety of things that one could look at. You might want to find others to talk about Canadian customs practice in terms of what other countries complain about, but let me take the valuation system at this time. We use a home market value system, and other countries say to us, "We use export values as the basis for valuation. Why do you not shift to that basis?" So there is a complaint in that area. There are also complaints against our government procurement systems. I should really let my experts talk about this. Have you fellows got a rundown of what the Americans have complained about in these books, about our practices?

Mr. Elliot: There were a couple of items mentioned earlier, such as, for example, the prohibition on the importation of used aircraft and used automobiles.

The Chairman: Of course, with regard to the prohibition on the importation of used automobiles it is not a prohibition in the strict sense, but . . .

Mr. Burns: Yes, it is a prohibition.

The Chairman: A total prohibition?

Mr. Elliot: Yes. There are some exceptions, but generally it is a prohibition.

Mr. Burns: You cannot get into the business of importing used cars from the United States into Canada. Private individuals can do it, in some circumstances.

Senator Carter: If you bought a used automobile in the United States and drove it into Canada, you could bring it through if you paid duty on it, could you not?

Mr. Burns: No. If you lived in the United States for a minimum period, and in the course of that period bought a used car which you then brought back with you, with all your goods and chattels, it would be all right.

Senator Rowe: That does not apply in respect of used European cars, does it?

Mr. Burns: Yes.

Senator Rowe: You cannot buy a used car in France and use it for six months and then bring it back into Canada?

The Chairman: You could buy a new car in France and do that, but not a used car.

Mr. Kelly: I would like to clarify this question about used cars and the prohibition. If the used car is of the current model year you can bring it in, though you may be

paying duty on it, if it is dutiable. The embargo does not apply against a current model year car, even if it is used.

Mr. Burns: It could be a demonstrator, for example.

The Chairman: You could buy a used U-drive that has only been on the road for six months, and bring that in, probably.

Senator McNamara: Mr. Chairman, I would just like to underline a point that was made earlier, about the current year. I would like to ask about Canadian television content. This is very important at a time when we are considering Bill C-58.

The Chairman: There are other aspects of Bill C-58 which United States industry is wishing to take to the GATT.

Senator McNamara: They have already made a complaint to the GATT, have they not, with regard to Canadian television content regulations?

The Chairman: Yes.

Senator McNamara: I am very interested in this matter at this time.

The Chairman: There are other things in Bill C-58, beyond television content, which are or will also be the subject of complaints to GATT.

It is now 12.15, and certainly the question of Canadian NTBs vis-à-vis the Americans is a subject that we have not dealt with as fully as I thought we might have done this morning. that this is not I do not wish to imply a very important subject, but it may not be the most appropriate thing to do to ask these departmental witnesses to come back another day for that, especially, Senator Carter, in that while in some respects I am sure they can fairly put forward some of the things that the Americans complain about, it is difficult to ask our side to describe our transgressions. Possibly we should see first if the Canadian Importers Association or some group such as that, who will be coming before us anyway, could develop that kind of thing, and let me ask Mrs. Seaborn, who is here, to give our staff some advice as to where we would best get some evidence on those particular points. Would that be satisfactory to you?

Senator Carter: I think that would be a good idea.

The Chairman: I have only one or two quick questions to put to you before we adjourn. My first deals with the difficulty of policing NTBs if you do arrive at agreements to start eliminating them on a multinational basis. I have been told, on visits to the European Community, that they have quite an extensive structure set up there to try to police each other within the Community on the question of NTBs, because having eliminated tariffs, which are easy to police, the ingenuity of man is such that you can think up an NTB almost daily; as you knock one down you can replace it with another. On a bilateral basis, for example, as between Canada and the United States, it would be easier to police. But is it practical to think that we can really police these things on a multinational basis?

Mr. Burns: Well, senator, there are two observations one can make about that. If the GATT arrives at codes of conduct in a particular area—and one example of where that is already in place is in the anti-dumping field—the GATT has established a surveillance committee which meets regularly and consists of all countries signatory to the anti-dumping code. The individual members are encouraged to bring forward complaints that they have about others who they feel are not administering their anti-dumping regulations in a manner consistent with the code that they have signed. That provides an opportunity for international discussion of the degree to which individual countries have not lived up to their obligations. So that where there is a standards area or a government procurement area, or that kind of thing, under a multilateral agreement, one would expect that part of that agreement would contain continuing opportunity for international surveillance of the administration of those codes on the part of individual countries.

The Chairman: So, you are hopeful that if the agreements can be reached, reasonable multilateral policing mechanisms can be reasonably effective?

Mr. Burns: In that area. If there is something else that is agreed bilaterally in the context of the multilateral negotiations, and if one of the partners does not live up to what the other partner thinks is the essence of the agreement, then, of course, there is an opportunity for the aggrieved country to bring the other into the GATT for a discussion of the sort that was held on eggs before Christmas. There are opportunities to get at the administration of these kinds of agreements it they are agreed to.

The Chairman: Are there many other examples of NTBs, other than the DISC, which have the effect of giving the competitive country, in this case the United States, an advantage over us in a third market? Is it a major problem?

Mr. Kelly: Another aspect of subsidies which we might discuss is their effect on our ability to sell into the United States market. This is where a subsidy is given to a U.S. firm producing goods which are competitive to goods shipped by us to the United States. The substitution effects operate against Canadian industry. The subsidies also operate against Canadian shipments to third countries in which we compete with the United States.

The Chairman: If they are subsidies of a general nature, their export goes out more cheaply than our export, so it provides a problem in the third world markets. The export credits, the DISCs and subsidies would fall into that category. Are subsidies a heavy problem in the United States?

Mr. Burns: Export subsidies in the United States are not widespread, but I think the subsidy area in the United States that will be of particular concern during the course of the MTN, the multi-trade negotiations, is really the argument about the relative impact of regional development subsidies in the two countries. In Canada, as in the Michelin case, a regional development subsidy leads to an industry which is at least partially export-oriented. In the United States, when they do the same kind of thing, in the Appalachian region, for example, they are really talking about subsidization of firms whose principal business will be within the domestic market.

The Chairman: As most of their businesses are.

Mr. Burns: That is correct. So there could be a situation in which a Canadian exporter of a product is really hit in its sales to the United States by a regional development subsidy that has no impact in terms of American suppliers, but has an impact in making Canadian exports to the United States less attractive.

The Chairman: Are the subsidies to which you refer nearly all advantages granted by local states to attract industry to those states?

Mr. Burns: They can be that, but there are some cases in which they can be national.

Mr. Kelly: Or to help distressed industries in the country.

The Chairman: Does the United States have much of that? I did not know that there was much subsidized industry in the United States.

Mr. Kelly: The United States has a number of areas in which there are problems of regional disparity.

Mr. Burns: The Appalachian region is one.

Mr. Kelly: In developing high technology goods—I do not wish to define that term—is one example of this.

The Chairman: Oh, yes; assistance by way of grants to universities and so on and companies developing technology in aerospace. We have heard quite a lot about that. Those are the main questions I have for the moment.

Mr. Burns and your colleagues from the department, again we thank you for your time, frankness, expertise and the information you have given us, which I am sure, will be of great assistance. We look forward to seeing you again, but not in the immediate future, with reference to this particular subject.

The committee adjourned.

APPENDIX "A"

NOTE: *The following information is a summary of Canada-United States non-Tariff barrier problems, prepared and submitted by Senator Allister Grosart on March 23, 1976, for inclusion in the Committee's printed proceedings.*

EXTRACTS

From

THE INVENTORY OF NON-TARIFF MEASURES

General Agreement on Tariff and Trade (GATT)

(Revised as of January 1974)

NOTE:

The INVENTORY (5 Volumes) is a compilation of responses from Member Nations to the invitation from GATT to "notify" actions of other members which they regard as Non-Tariff Measures restrictive of trade. It does not claim to be exhaustive, merely to list those notified as of issue date.

Specific descriptions of items notified and their alleged effects on trade are usually given, often in extenso (but here omitted). Items shown as "General" are notifications which apply generally to many countries.

The INVENTORY is presented under 5 major Classifications (Part I-V below). Each Part is then broken down into Categories as shown in the left hand column.

Of a total of 33 Categories, Canada-United States items appear in 16. Canada is involved in a total of 125 notification items with other countries compared with the above total of 38 with the United States. Total notifications in the Inventory is 855.

UNITED STATES NOTIFICATIONS vis-à-vis CANADA

PART I: Government Participation in Trade

Category	Item Notified	Countries Notifying
Government Aids	Subsidies to film producers	United States
Government Aids	Domestic subsidies that stimulate exports (Michelin Tyre Ltd.	United States
Government Procurement	Government procurement (including provinces)	EEC, Japan, United States
State Trading, Government monopoly practices, etc.	Monopolies operated by Canadian Provincial Liquor Boards	Brazil, EEC, United States

PART II: Customs and Administrative Entry Procedures

Valuation	Arbitrary valuation and surtax	Hong Kong, Japan, United States

PART III: Standards Involving Imports and Domestic Goods

Requirements Concerning Marketing	Imports permitted only in can sizes established by Canadian Government	United States
Industrial Standards	Canadian Standards Association for Electrical Equipment	United States, Brazil, EEC

PART IV: Specific Limitations

Screen time quotas and other mixing regulations	Restrictions on trade in recorded television programmes	United States
Embargoes and other restrictions of similar effect	Prohibitions, with exceptions, on imports of used aircraft and automobiles	United States

CANADIAN NOTIFICATIONS vis-à-vis UNITED STATES

PART I: Government Participation in Trade

Category	Item Notified	Countries Notifying
Government Aids	Concessional Export Financing	(General)
Government Aids	Western hemisphere trading corporations	Canada
Government Aids	Domestic International Sales Corporation (DISC)	Canada, EEC, Japan, Switzerland
Countervailing duties	Countervailing duties	Canada, EEC, Japan, Yugoslavia
Restrictive practices tolerated by governments	Activity by United States labour unions to restrict imports	Canada, EEC, Israel, Japan
Restrictive practices tolerated by governments	Multi-national corporations	(General)

PART II: Customs & Administrative Entry Procedure

Anti-dumping	Anti-dumping	Canada, EEC, Japan, Switzerland
Valuation	American Selling Price	Canada, EEC, Hong Kong, India, Japan, Korea, Mexico
Valuation	"Final list" valuation	Argentina, Canada, EEC, India, Japan, Nordic Countries, Switzerland, Yugoslavia
Customs classifications	Special valuations	Canada, EEC
Customs classifications	Uncertainty of TSUS classification	Austria, Canada, EEC, Portugal
Consular formalities and documentation	Customs Invoice Form 5515	Austria, Canada, EEC, Japan, Switzerland
Consular formalities and documentation	Delays in customs services	Canada
Consular formalities and documentation	Ports of entry for furs and fur products	Canada

PART III: Standards Involving Imports and Domestic Goods

Category	Item Notified	Countries Notifying
Industrial standards	Standards (plumbing and heating equipment, lumber, fire fighting equipment and electrical equipment)	Australia, Canada, EEC, Japan
Health and safety standards	Coast Guard inspection of safety equipment for use on United States Flag vessels	Canada, EEC, Nordic countries

Health and safety standards	Consumer product Safety Act	Canada
Requirements concerning marketing	Fair Packing and Labelling Act, 1966	Canada, Nordics
Requirements concerning marketing	Marks of origin	Austria, Canada, EEC, Japan, Nordics, Mexico
	PART IV: Specific Limitations	
Embargoes and other restrictions of similar effect	De facto prohibitions on imports of:	
	—foreign-built dredges and other work vessels for use in United States territorial waters —foreign-built air-cushioned vehicles for use in coast-wide trade over water —containers of foreign manufacture on United States flag vessels —denatured industrial alcohol	Canada, European Communities, Japan, Norway
Quantitive restrictions	Quotas on cotton textiles, butter substitutes, milk powder	Argentina, Brazil, Canada, Yugoslavia, New Zealand, Japan, Uruguay
Embargoes and other restrictions of similar effect	Restrictions on use of imported nuclear materials	Canada
Embargoes and other restrictions of similar effect	Copyright legislation "manufacturing clause"	Canada, EEC, Switzerland
	PART V: Charges on Imports	
Border tax adjustments	Excise Tax System	Canada, EEC
Border tax adjustments	Measurement of alcoholic content of spirits	Canada, EEC
Emergency action	Escape clause tariff action	Canada, India, Japan, EEC

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FIRST SESSION—THIRTIETH PARLIAMENT
1974-76

THE SENATE OF CANADA

PROCEEDINGS OF THE

STANDING SENATE COMMITTEE ON

FOREIGN AFFAIRS

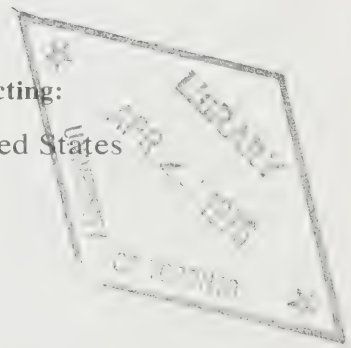
The Honourable GEORGE C. van ROGGEN, *Chairman*

Issue No. 28

TUESDAY, MARCH 23, 1976

Twenty-sixth Proceedings Respecting:

Canadian Relations with the United States



(Witness: See Minutes of Proceedings)

21243—1

THE STANDING SENATE COMMITTEE
ON FOREIGN AFFAIRS

The Honourable George C. van Roggen, *Chairman*

The Honourable Allister Grosart, *Deputy Chairman*

and

The Honourable Senators:

Asselin	Lafond
Barrow	Laird
Bélisle	Macnaughton
Cameron	McElman
Carter	McNamara
Connolly (*Ottawa West*)	Rowe
Croll	Sparrow
Hastings	Yuzyk

Ex officio Members: Flynn and Perrault.

(Quorum 5)

Order of Reference

Extract from the Minutes of Proceedings of the Senate, Wednesday, November 6, 1974:

"Pursuant to the Order of the Day, the Senate resumed the debate on the motion of the Honourable Senator van Roggen, seconded by the Honourable Senator Riel:

That the Standing Senate Committee on Foreign Affairs be authorized to examine and report upon Canadian relations with the United States;

That the Committee be empowered to engage the services of such counsel and technical, clerical and other personnel as may be required for the purposes of the said examination, at such rates of remuneration and reimbursement as the Committee may determine, and to compensate witnesses by reimbursement of travelling and living expenses, if required, in such amount as the Committee may determine;

That the papers and evidence received and taken on the subject in the preceding session be referred to the Committee; and

That the Committee have power to sit during adjournments of the Senate.

After debate, and—
The question being put of the motion, it was—
Resolved in the affirmative."

Robert Fortier,

Clerk of the Senate.

21 243–2

Minutes of Proceedings

Tuesday, March 23, 1976
(34)

Pursuant to adjournment and notice, the Standing Senate Committee on Foreign Affairs met at 2:38 p.m. this day.

Present: The Honourable Senators van Roggen (*Chairman*), Asselin, Barrow, Cameron, Carter, Connolly, Grosart, Lafond, Macnaughton, McNamara, Rowe and Yuzyk. (12)

Present but not of the Committee: The Honourable Senator Riel.

In attendance: Mrs. Carol Seaborn, Special Assistant to the Committee; Messrs. Robert Robichaud and Bill Neil, from the Library of Parliament, Research Assistants to the Committee.

The Committee continued its study of Canadian Relations with the United States.

Witness: Mr. R. D. Brown, Senior Tax Partner, Price Waterhouse and Co., Toronto, Ontario.

The Honourable Allister Grosart tabled a Summary of Canada-United States non-Tariff barrier problems.

On motion of Senator Grosart, *Resolved,*—That the abovementioned document be appended to the printed proceedings of March 18, 1976 (*Issue No. 27*).

At 4:35 p.m. the Committee adjourned to the call of the Chairman.

ATTEST:

E. W. Innes,
Clerk of the Committee.

The Standing Senate Committee on Foreign Affairs

Evidence

Ottawa, Tuesday, March 23, 1976

The Standing Senate Committee on Foreign Affairs met this day at 2.30 p.m. to examine Canadian relations with the United States.

Senator George van Roggen (*Chairman*) in the Chair.

The Chairman: Honourable senators, continuing with our study we come to the evidence of Mr. R. D. Brown, Senior Tax Partner, Price Waterhouse & Co., Chartered Accountants. He has served recently as co-chairman of the Joint Committee on Taxation of the Canadian Bar Association and the Canadian Institute of Chartered Accountants. He is an occasional lecturer at Osgoode Hall on taxation matters. Mr. Brown has been engaged in frequent consultations on taxation matters by both federal and provincial governments. In 1973 he headed a study for the federal government on taxation impacts on the pulp and paper industry and has written widely on tax matters. He is the chairman of the Tax Committee of Price Waterhouse International, a worldwide organization of Price Waterhouse firms.

Mr. Brown, if you would give us an opening statement, Senator Connolly has kindly agreed to start off the questioning.

Mr. R. D. Brown, Senior Tax Partner, Price Waterhouse & Co.: Thank you, Mr. Chairman.

Honourable senators, while I have not prepared a formal opening statement, I felt that I would lead off with a few general remarks concerning tax relations and tax comparisons between Canada and the United States as they may affect trade and investment between the two countries.

First of all, I would refer to the special study undertaken by my firm in 1973 concerning the comparative tax position of the Canadian pulp and paper industry with corresponding industries in the United States, Sweden and Finland. The report was a very lengthy and complex document. It dealt in some detail with the overall tax burden on the Canadian pulp and paper industry in comparison with the tax burdens on comparable industries in the United States, Sweden and Finland. While the report dealt with a number of aspects of the tax position in these countries, one of the approaches taken was to construct a model of the Canadian pulp and paper industry using data especially assembled from a survey of the industry, then manipulating that data in a special computer model over a 35-year period, and imposing upon it the tax systems in Canada, the United States and the other countries in our survey. This comparison enabled us to make a long-term study of the implications of the Canadian tax system relative to other tax systems on our pulp and paper industry.

The data on which the report was based is now several years old and, in any event, relates only to the pulp and paper industry. However, I believe that some of the general conclusions that can be drawn from this analysis are still valid and can be applied to a very broad section of Canadian industry, not merely the pulp and paper industry.

The main conclusions which do have such general validity can be summarized as follows: that any set of tax comparisons is a very complicated matter; that by using the right figures you can come to virtually any answer you choose; and that it is possible to draw only very general conclusions with respect to comparisons of tax systems in different countries, because in some circumstances one tax system will appear unfavourable, while a change in circumstances might make the other system more favourable.

After having given those general caveats, it is possible to conclude that Canada, compared to studies of other countries, is a relatively high tax economy with a large number of taxes levied by different governments and imposed on a different base. This, indeed, is one of the hallmarks of the Canadian tax system. We have a large number of governments imposing a very large number of taxes and our tax system does not consist simply of the Income Tax Act, but also of a very variety of other levies and imposts.

Relative to the United States, the Canadian tax system in the corporate area appears to impose tax burdens which are relatively comparable in the aggregate. That is based on the results that we arrived at in the pulp and paper study and on various reviews since undertaken. The total aggregate amount of taxes payable by a Canadian corporation is in very general terms in some sort of rough equality to the total tax burden that would be paid by a U.S. company. Of course, in some circumstances American companies will pay more, and in other circumstances Canadian companies will pay more.

Despite this apparent rough equality of tax burden, the Canadian industry would appear to suffer more from the tax burden in Canada than the United States industry does from the tax burden in the United States. Specifically, the cash flow of Canadian industry would appear to have a lower present value, and the Canadian industry would appear to have a lower reported rate of profitability, as analyzed in the report's computer models and special studies.

This conclusion might appear to be somewhat startling. Why does Canadian industry have a lower cash flow and lower reported profits if, in fact, it pays the same aggregate tax burden?

The answer to that comes from the type of taxes which are imposed in Canada. It really relates to the heavy burden of other taxes, on cost inputs taxes such as sales taxes, municipal taxes, capital taxes, and a wide variety of other levies, many of them imposed at the provincial or local levels. As a percentage of net income before tax in

our pulp and paper study in the United States, these other taxes were about one-half to three-quarters of the level in Canada. On a long-term cumulative basis, the heavy burden of these other taxes—sales, capital, municipal—provides a lower cash flow to Canadian companies. It provides an increase in the capital costs of plant, buildings, machinery and equipment in Canada. It provides an increased need for financing at the start of any capital expansion and, hence, results in higher interest costs to the Canadian company. The impact of these other taxes is, therefore, a "front-end load" on Canadian industry. This is particularly important in years of high capital investment, or the initial years of a new company. There is also this heavy burden of other taxes, basically of a fixed character unrelated to profits, which means that the Canadian tax system can be particularly harmful in loss years or years of low profits, and tends to accentuate the business cycle in Canada since the tax burden is particularly heavy when industry is not doing well.

Senator Connolly: Do you mind if I ask you what you mean by the expression "unrelated to profits"?

Mr. Brown: I am referring to taxes which are imposed on industry or industry costs which are other than income taxes or logging taxes based on profits in other words, taxes unrelated to profits are sales taxes, municipal real estate taxes, capital taxes, and so forth. These taxes, because they are not related to profits, do not decline in a loss or low-profit year and, therefore, tend to drag down the performance of industry.

Senator Grosart: Perhaps you mean "not based on profits," rather than "unrelated."

Mr. Brown: Yes.

If you compare the income tax systems of Canada and the United States, dealing only with income taxes, the Canadian system appears only slightly worse from the point of view of the corporation than the United States tax system. The Canadian tax system provides equivalent or slightly better cash flow, but slightly lower reported profits. The United States tax system is biased towards allowing companies to report higher profits, and most of the United States incentives—such as the DISC (the Domestic Industrial Sales Company) and the investment credit—are allowed to flow through to provide immediate improvement in profits; whereas the main Canadian tax incentive really lies in our Canadian capital cost allowance system—and that does not result in an immediate improvement in the reported profits of industry, because industry is reporting profits on a deferred tax basis.

I might go on at this point to say a few additional words about general problems and tax comparisons affecting investiment and trade between Canada and the United States. In the United States the basic corporate tax rate at the moment is about 48 per cent. This is a federal rate. State taxes, which frequently range from 5 to 7 per cent, are in addition. However, the state income taxes are deductible in determining income subject to the federal tax. The result is that the total aggregate corporate tax burden in the United States is roughly at the 50 per cent level. In Canada the total effective burden, federal and provincial, on corporate profits ranges from about 46 to 49 per cent. It is lower than this on that portion of Canadian companies' profits which are deemed to arise from manufacturing and processing in Canada. The total combined income tax burden on those profits would be from 40 to 43 per cent.

In the United States the main tax incentives at the moment include a very liberal investment tax credit. Depending on certain factors, 10 or 11 per cent of the cost of new capital investment in plant and equipment is allowed as a tax credit. In Canada we have an investment tax credit, but it is only 5 per cent. Furthermore, that 5 per cent must be used to reduce the basis of the asset for further depreciation purposes. This is not true in the United States.

Senator Grosart: What was the United States figure?

Mr. Brown: It is 10 or 11 per cent, depending on whether or not the corporation maintains a qualifying stock investment plan for employees.

Senator Carter: It reduces the basis of what?

Mr. Brown: A 5 per cent tax credit in Canada reduces the "basis" of the asset for tax purposes. If you buy an asset for $100 in Canada, there is a tax credit of $5 which is used to reduce your tax liability, and you can then only depreciate $95. In the United States you might buy an asset for $100; there would be a tax credit of $10; and you can then depreciate $100. It really means that the 5 per cent tax credit in Canada is worth less than one-third of the 10 per cent tax credit in the United States.

The United States also has the DISC, (Domestic International Sales Corporation)' which, in a complex way, provides for about a 25 per cent rebate of the tax applicable to export profits. There is no corresponding vehicle in Canada. However, Canada does have a more generous capital cost allowance system or depreciation allowance for tax purposes. Our rates are much more generous to industry than those in the United States.

Other taxes, sales taxes, duties on imports and so forth, tend to be higher in Canada. We have both provincial sales taxes, which run from 5 per cent in the west to 8 per cent in the east, plus a general federal sales tax of 12 per cent. In the United States there is no general federal sales tax, and state sales taxes tend to be at lower levels. Also municipal taxes on the whole may tend to be slightly lower in the United States. This may be due to the fact that the United States has somewhat better weather conditions. Their costs, which are related to certain municipal activities, may therefor be somewhat less. That statement does not apply to New York City.

There are a number of current tax issues that are affecting trade and investment between Canada and the United States. They are perhaps resulting in some irritation to investors on both sides of the border. One of the issues that has been raised in the United States is an alleged discrimination by Canada against United States investment in this country. It relates to U.S. investment that is already here. The lower rate of corporate tax which we allow to Canadian-owned corporations—that is, the lower rate of tax of approximately 25 per cent on the first $100,000 of active business income—is not available to a U.S. Corporation doing business in Canada or to a Canadian subsidiary of a U.S. corporation. Commentators in the United States also refer to the fact that other incentives may not be available to U.S. corporations operating in Canada. There is concern in the United States about the federal Foreign Investment Review Act. New U.S. investment in Canada, and an expansion of existing U.S. investment into new areas, requires federal approval. There is also some irritation about provincial and other restrictions relating to foreign investment in such areas as the land

transfer tax in Ontario which can impose a tax on non-residents buying real estate in that province. There are the federal restrictions on foreign ownership of uranium properties; the restrictions in Prince Edward Island on sales of land to non-residents, and so forth.

There is also increasing concern in the United States relating to the uncertainty of doing business in Canada. We have developed some radical new approaches to the taxation of resources income in Canada which are difficult for foreigners to understand and which may even be difficult at times for Canadians to understand. There is the policy of the Saskatchewan government in seeking to acquire ownership of a large share of the potash industry in that province. There is a general feeling that foreign investment is not exactly welcome in Canada, and that even if it is accepted, the rules of the game can be changed adversely with little notice.

There are a number of irritants on the Canadian side as well. There is some concern in Canada that the United States DISC rules, providing an effective tax rebate on exports, might harm Canadian industry both in Canada and in competition with U.S. exports and other countries'.

Senator Connolly: Have they?

Mr. Brown: My own view is that they have not had a major effect. You can point to the odd industry where they have been affected. In pulp and paper they have been effective in giving some access to U.S. exports in Europe, but, by and large, I do not think they have been a major factor.

There is some concern about possible changes in the U.S. tax system. A number of bills are currently being considered before the U.S. Congress which would have the effect of imposing much heavier tax on U.S. corporations having foreign subsidiaries abroad. The details are intricate, but the net effect would be that if this legislation is passed, the United States might take action to tax away from a U.S. parent company, the benefit of various incentives and tax rebates granted to the Canadian subsidiaries of such a U.S. parent company. Any such action would have an extraordinarily large impact on Canada, which has a large share of U.S. investment abroad. This, of course, must be a considerable concern to Canadians.

Senator Connolly: Are these incentives provided by the U.S. government or are they earned by the Canadian subsidiary?

Mr. Brown: No. The incentives to which I refer are provided by the Canadian government. The U.S. Internal Revenue Code taxes dividends which Canadian subsidiaries of U.S. companies send to their U.S. parent companies, but credit is allowed for all of the Canadian income taxes which have been paid on that income. What the amendments now being considered before the U.S. Congress might do is to require U.S. parent companies to pay tax immediately on part or all of their share of the income of their foreign subsidiaries abroad, whether or not it was distributed. In turn, this would mean that tax rebates granted to Canadian subsidiaries of U.S. companies in Canada would be more likely to be taxed away by the U.S. Treasury.

Senator Macnaughton: Is this for income purposes or for negotiation purposes?

Mr. Brown: The particular changes are being urged only partly for income or revenue purposes. A large part of the thrust comes from the argument that U.S. multinationals have exported U.S. jobs to other countries. Labour organizations, in particular, are behind these sets of proposals. Part of them are embodied in those negotiations of the Burke-Hartke bill which has been before the U.S. Senate and the House of Representatives for several years, and it keeps coming up in the Ways and Means Committee in the U.S. House of Representatives.

Senator Macnaughton: It does not necessarily follow from annoyance at recent Canadian actions?

Mr. Brown: I would say not, although I would think that in part it may be related to some earlier U.S. labour concerns about the Canada-U.S. Auto Pact.

Senator Rowe: But the action is not confined to Canada, alone?

Mr. Brown: No, the action is not confined to Canada, but it would have the largest impact in Canada because Canada has the highest percentage of American investment relative to total investment.

Senator Grosart: Would that be acceptable under the double taxation agreement or the avoidance of the double taxation agreement?

Mr. Brown: It would appear that the present Canada-U.S. agreement would not preclude that action.

Senator Connolly: Would it mean that any incentives that are provided for that subsidiary in Canada by the Canadian government would immediately be deemed to be income in the hands of the subsidiary and, therefore, of the parent under these new laws?

Mr. Brown: To the extent that the incentives reduce the effective Canadian tax rate below the standard U.S. rate, then when that income is deemed to be distributed in the United States, they will only allow a foreign tax credit for the actual Canadian taxes paid. If these are less than 50 per cent, because we granted some credit or incentive, in effect the U.S. tax rules comes in and tops it up to the 50 per cent level, which is roughly the standard rate of tax in the United States.

Senator Grosart: That is if we granted the concessions to Canadian companies and not the U.S. subsidiaries?

Mr. Brown: If we granted the concessions to U.S. subsidiaries, to put it in simple terms, so that their effective rate of tax in Canada has been reduced from 50 per cent to 40 per cent with the manufacturing and processing credit. If that income was immediately distributable to a U.S. parent company for U.S. tax purposes, then the U.S. would come along and impose a net tax of 10 per cent. They tax it at 50 per cent, but give a 40 per cent credit for what is already paid in Canada. The real impact is that the lower rate of Canadian tax, which was to provide an incentive for manufacturing and processing, has been taxed away by the United States. This would be the likely impact of various proposals before the U.S. Congress.

I might say that the U.S. tax reform is not proceeding very rapidly. There is at least a good expectation that these measures will not be dealt with before the presidential election this fall in the United States.

On the Canadian side there is also some concern over actions by the Internal Revenue Service which has basi-

cally sought to prevent U.S. companies from reducing their U.S. tax liabilities by syphoning profits off to foreign subsidiaries. This is a perfectly proper action for the U.S. to take. But there is some concern that they have been doing it so actively as to import into the U.S. profits which properly belong in Canada. The U.S. revenue authorities are leaning on U.S. corporations with respect to the transfer of profits from the U.S. to outsiders. This may have the effect of reducing Canadian tax revenues. Some of these problems, and others, are being dealt with in current tax treaty negotiations between Canada and the United States, which have been going on for some time but without any conclusion to date.

The only thing that one can say in conclusion is that tax problems and concerns of investors over issues related to taxation and the treatment of foreign investment have become a much larger issue in Canada-U.S. relations over the past few years.

The Chairman: Thank you, Mr. Brown. Is there any comment?

Senator Connolly: We are most grateful to you for coming here, Mr. Brown. I may say that in the Banking, Trade and Commerce Committee of this chamber a good many of these problems have arisen, particularly in connection with the review of the new tax legislation of a couple of years ago, and continue to raise their heads, ugly or otherwise, as we get various amending bills to the income tax and other tax laws that we have. In dealing with Canada-U.S. relationships it is really invaluable to have you come here this afternoon.

Would it be possible, and desirable, for us to have as an appendix to the report a table which would indicate some of the important sectors of both economies affected by our mutual commercial activities? It would be a table giving the comparative tax rates. Would that be a possibility?

Mr. Brown: It would be a possibility. It is not always as useful as you might think. The most important difference, when you are comparing tax systems, is the tax base and not the tax rate. The differences in the determination of income and the various technical rules are usually far more important than the actual rate itself. In the pulp and paper study, for example, one of the largest differences between Canada and the U.S. is the fact that American producers are allowed capital gains treatment in the increase of the value of their timber when they cut it. This is not directly related to the tax rate—it is 48 per cent in the United States; it is the way they compute the income for tax purposes.

Senator Connolly: I know it is a very complicated area to be discussing. In some respects, it is almost comparing apples and oranges, even though the results might be comparable. I would like to leave that for a minute, except to say that it seems that if such a table were possible, Mr. Chairman, it might be a useful appendix to have, because I think it will emerge this afternoon that these tax problems do affect the relationship between the two countries.

Senator Grosart: To some extent it has been done in this study.

Senator Connolly: Yes. There is an article in the *Canadian Business Review* on the gas industry, and there are some comparative tables there.

Mr. Brown: That is right.

Senator Connolly: I was thinking more of a comprehensive table. It might be useful to people engaged in this study.

Mr. Brown: It would be very easy to prepare a simple schedule of rates. If you would like it, I would be delighted to do it.

The Chairman: You have already expressed my concern that it might be misleading if you do not do it in the light of all of the other remarks that the witnesses have made about the base on which it is to be applied, and so forth. Certainly it is something we could come back to later in the afternoon.

Senator Connolly: From what you have said and what we all know, I would think a knowledge of the tax system of the other country is important to traders and investors on both sides of the boundary. I would like you to talk about traders and investors concerned about policy as opposed to taxes, whether they be income, in the way of a customs tariff, sales tax or municipal tax on land. The man who makes the deal is the fellow who produces the statistic that gets into the table about volume of business.

His deal is made at conferences, meetings, visits, and sometimes on the telephone. What is he thinking about? Is it the general atmosphere created by policy; or is he thinking of the individual taxes that he will pay as he goes through?

Mr. Brown: I think he is thinking about both. Most businessmen in Canada and the United States are sophisticated enough to calculate deals on an after-tax basis. They want to know the precise tax rules applicable to them, and what they will earn after all of the taxes, and how these taxes are going to be paid. More than that, with anything involving a long-term commitment there is a broader concern. Is the country stable? Are the tax rules and investment restrictions stable? Can I count on getting my money back, providing business conditions are favourable? Canada has had an unusually favourable reputation for stability and fair and favourable treatment to foreigners. I do not say that we have lost it, but it certainly has deteriorated. I no longer think that we have the special advantage in this area that we did have relative to the United States 15 or 20 years ago.

Senator Grosart: We have joined the banana republics.

Mr. Brown: There is some truth in that.

Senator Connolly: Tax reform had a great impact.

Mr. Brown: Tax reform had a substantial impact, but it has been reinforced by areas such as the Foreign Investment Review Act, by the actions of certain of the provinces, particularly in the resource field, and by the general feeling that foreign investment and foreigners are no longer as welcome in Canada.

Senator Connolly: It is this growing feeling of nationalism that seems to pervade so much.

Mr. Brown: Yes.

Senator Connolly: Even environmental concerns.

Mr. Brown: Yes although the Americans are facing those at home.

Senator Grosart: It is even worse there.

Mr. Brown: The U.S. are prepared to recognize nationalism. They have to deal with it all over the world. They are not absolutely terrified ot it. But it means, in a relative position, investment and trading in Canada is less favourable.

Senator Carter: Has the U.S. not recognized nationalism in their own society? They were taking the same sort of stance regarding investments as we were when the Arabs were going to spend their money in buying up U.S. corporations.

Mr. Brown: Yes; although I do not think it was or is as serious in the United States, and somehow it is not taken into account when considering developments abroad. I have seen Canadian businessman become extremely upset about Japanese restrictions on foreign investment, although at the moment they are probably less onerous than those restrictions in Canada. That does not prevent Canadian businessmen from getting upset at Japan because they restrict non-resident investment. The same rules apply to the Americans. Even though they may do it at home, they get very upset when other people do it abroad.

Senator Macnaughton: Because our trade is so great, and we are right next door, we always look into our neighbour's backyard.

Mr. Brown: That is right. Furthermore, the actions taken by Canada are widely reported in the United States. We sometimes complain that we do not get enough publicity. When Saskatchewan takes action on the potash issue, that gets a lot of publicity in the United States.

Senator Connolly: I do not think anyone Would question the freedom of either country to impose tax laws that it feels are the appropriate laws within its own jurisdiction, both for revenue and to protect its own economy. Do you think there is any possibility of an international attempt between the two countries to rationalize the tax laws, to have some uniformity—much the same as the Canadian Bar Association has done in another context? There has been for many years now the promotion of uniformity of laws between federal and provincial governments, and you are familiar with that. Is this a desirable goal and one that this committee might consider appropriate?

Mr. Brown: It would be extremely difficult to contemplate any general uniformity between Canadian and U.S. tax rules. Each country likes to do its own thing in the tax area. The United States Internal Revenue Code is just as complicated, or more so, than our Income Tax Act, because of a lot of special provisions that have been put in. What I think is that a lot of our tax problems could be reconciled by a much more comprehensive and up-to-date tax agreement between our two countries. The existing agreement was signed many years ago. It is partially obsolete and does not cover many of the problems I referred to in my opening remarks. A better and more comprehensive tax treaty, one which would look at trade and investment from a comprehensive point of view, would go a long way in solving some of these problems.

Senator Connolly: Is ther any question of input from the professions, like your own and the legal profession, into the formation of a tax treaty?

Mr. Brown: Some representations have been made by the Canadian Institue of Chartered Accountants and the Canadian Bar Association.

Senator Connolly: By industry itself?

Mr. Brown: Also from individual members of industry to the Department of Finance, which I think has some basic responsibility in this area. As I understand it, there are a number of tax and trade issues between Canada and the U.S. which are not easy to iron out. These have slowed down progress towards a new tax treaty between our two countries.

Senator Connolly: This may be a little off the beam for our consideration, Mr. Chairman, but with a man like Mr. Brown here it might be useful to let the committee have the benefit of his views. In our own tax structure we have corporate rates of 49 to 50 per cent. Then for manufacturing it comes down to an average of 40 per cent, for the obvious reasons that are given. In the mining, oil and gas industries it drops to approximately 36 per cent. In the press and elsewhere we hear a lot of criticism about the big companies, the multinationals, getting great tax breaks which ordinary Canadian companies do not get. There is really very little regard given to the conditions that have to be met within some of these industries. I wonder whether you would like to embark on a defence, or otherwise, of the special kind of look that is given to various segments of the private sector when it comes to determination of tax levels and rates. Perhaps because of what you have done with the pulp and paper industry, you can talk about that.

Mr. Brown: In my opening remarks, when I said that the income tax systems of Canada and the United States are roughly comparable, I referred to the Canadian system including the various incentives which now exist, and most particularly the 40 per cent tax rate on manufacturing profits and the two-year accelerated write-off for manufacturing and processing equipment. As can be seen from the details of the study, without those two incentives the Canadian tax system becomes very substantially more onerous than the United States tax system on corporate profits.

What these two incentives do the manufacturing and processing low rates and accelerated write-off on new equipment—is give a total Canadian tax system which is roughly comparable to the U.S. system which has a much higher investment tax credit and which contains a variety of other special rules, such as the DISC, the WHTC (Western Hemisphere Trade Corporation) and various other items which can give U.S. corporations a tremendous advantage in international trade.

With respect to the resource area, the picture there is very complex. Our resource companies in mining and hard minerals are generally selling their products on world markets. They are facing domestic Canadian costs. They must meet world prices. The taxes have to come out of the margin between those costs and those prices. Aggregate Canadian tax rates in mining are high in relation to international comparisons. They include not only income taxes, but a whole variety of mining income taxes and mining royalties.

The oil and gas sector is so complicated that it is hard to make any general summary of it. Our prices are not quite international, but seem to be moving there. A large part of the increase in prices has gone to provincial governments through provincial royalties and not through the income tax structure, per se. I would not say that new oil and gas investment in Canada was as attractive as in the United States and certain other countries.

Senator Connolly: That is obvious. I do not know whether they are moving back now. The rigs were all moved out for a while.

Mr. Brown: There are signs that some of them are coming back, but it is still not that favourable in Canada.

Senator Rowe: When all things are added, the climate is more favourable for investment in the United States than it is in Canada.

Mr. Brown: I hesitate to draw that as a general conclusion. In many industries, if you are looking only at direct return, which is of course the most important factor, the answer would be yes. There are areas of the United States, most noticeably New York City but including some other areas in the north east, that are fairly heavily taxed because of local taxes. When you are talking about the broad width of the United States, particularly the southern and western states, looking at it from an overall tax point of view, the tax burden on industry for manufacturing and processing, and in some cases on resource extraction, may be lower as a generalization.

Senator Grosart: In Canada?

Mr. Brown: In the United States.

Senator Connolly: We talk a good deal about the problems which arise in the tax field between the federal and provincial authorities. Do the Americans have comparable problems between the federal and state?

Mr. Brown: On the whole, the problem is less serious because the United States is really moving towards a unitary system. The federal government has in many broad areas complete dominance over the states. They have used shared cost programs and pre-emptive federal legislation to impose dicisions on state governments in a way that is not acceptable in Canada, so the conflicts are not nearly as serious.

Senator Rowe: Right at the beginning, Mr. Brown, may I add my congratulations to those of Senator Connolly's for this very lucid exposition with which you opened this discussion?

At the beginning you mentioned that Canada was among the higher taxed economies. I take it that in making that comparison you were applying it in terms of the 140 economies of the world. Would that statement be valid if you were to leave out all but the so-called western countries?

Mr. Brown: We are certainly towards the top of the list. Taxation in Canada, in terms of total burden, is not as onerous as in Sweden, which is a country with a very high degree of government intervention in the economy and a great many social programs. The only general way that you can measure, total tax burdens is to calculate taxes and other government revenues as a percentage of the gross national product. Various studies have been done by the OECD and other bodies. Canada is not at the very top of the list, but is certainly in the top third. Our tax burdens can be somewhat greater than the United States. We, in Canada, are trying to provide a wide variety of welfare and social programs and very good educational systems based on an income not as great as the United States. Naturally, our taxes as a percentage of income tend to be somewhat higher.

Senator Rowe: You spoke of the increasing uncertainty of investment, from an American standpoint, in Canada. I suppose it is another way of saying that things are not quite as stable as they used to be. I recall some years ago in the province of Newfoundland we were trying to attract investment capital. Over and over again in our discussions we would run up against some European or American investors, who would say, "We are anxious to come up here to Canada, generally, or Newfoundland, in particular, because of the stability." They were not just thinking of political stability, although that was undoubtedly a factor as compared to some of the South American countries. Things seem to have changed in recent years. You referred specifically to the action taken in Saskatchewan, the rules being changed with very little notice. Is that not inevitable today? Is there any way that can be obviated?

Mr. Brown: Probably with the changing view that Canadians have of themselves, it is very probable that we are going to make changes in our economy, and the changes in the rules are going to be a bit upsetting to non-residents. Part of the problem is that it is difficult for people outside of our country to really appreciate why we are doing this and the fact that we do not intend to take it too far. They read the headlines and become very concerned when they see one or two moves that are regarded as radical. They do not fully appreciate that there are many other circumstances in Canada where we have not radically altered the rules.

The Chairman: Upsetting not only to foreign investors, but to domestic investors as well.

Mr. Brown: Yes.

Senator Rowe: You referred to action being taken in the United States to syphon off some of the advantages that have been given to investors in Canada and, by extension, in other countries. Is this a sign of the increasing nationalism in the United States or an attempt to get back, tit for tat, for some of the things that have been in Canada and other countries vis-à-vis American investment abroad?

Mr. Brown: I do not think it is really are retaliation against Canada or other countries. In part, it is related to concerns in the United States about the alleged export of jobs from that country. Part of it is the relatively unflattering view of multinational corporations based in the United States which has developed among certain members of the Congress. It is really a view that they want United States corporations to be less active outside of the United States for political reasons, as well as reasons related to the domestic U.S. economy. I do not think these approaches are valid. The reason the U.S. corporations set up plants abroad to produce goods is not an attempt to get around U.S. tax rules, but because economics dictate these operations are more viable outside the United States than within the United States.

Senator Rowe: The net result of this American action, if continued, will be to cut down on American investment abroad.

Mr. Brown: Very clearly it would have an adverse affect on American investment abroad and on new investments and the expansion of existing investments.

Senator Grosart: What is the state of the argument as to whether investment abroad does or does not export employment? Is it resolved or is it still up in the air?

Mr. Brown: As far as some people are concerned, it is still up in the air. My own view is that in most circumstances it does not export jobs. If the item can be made as cheaply domestically, then it will be. People do not go to Ireland, where very low tax rates and incentives are available, to avoid Canadian tax. But if you are trying to export certain commodities into the European Common Market and it is necessary to have a base there, then Ireland may be a reasonable place to put the factory.

Senator Grosart: For the same reasons Americans came here, to get around our protective tariff and into the Commonwealth.

Mr. Brown: Precisely.

Senator Grosart: Again, what is the state of consultation between the two governments before these measures are taken?

Mr. Brown: I would have to say that it is my understanding that there is very little. I want to make it clear that the measures we were referring to before the U.S. Congress are not supported by the U.S. Administration.

Apparently, there has been relatively little consultation between our two governments, even on problems on which they might have considered some cooperative action. This may be related to concern over budgetary secrecy, or to other policies.

Senator Grosart: Do you think there is room for more discussion?

Mr. Brown: Yes, I do. The problems are very difficult to iron out one by one. The only way you can iron these out is by putting them all on the table and dealing with a batch of them at the same time, with a sense of give and take.

Senator Grosart: This is the very opposite of some evidence we have heard. I think it was the ambassador who said you have to take them one at a time.

The Chairman: You are speaking of the problems relative to tax. There may be a distinction in taking the basket approach to tariffs.

Senator Grosart: The point is they come very close, Mr. Chairman. I was going to ask Mr. Brown how many of these tax policies, or actions, are now officially regarded as non-tariff barriers.

Mr. Brown: That is a very good point. The United States has been concerned about some of the actions we have taken in Canada, such as the subsidies which we have given to plants in depressed areas. The United States has, in at least one case, treated those, in effect, as an indirect subsidy and imposed counterveiling duties if the goods were exported to the U.S. There are all kinds of other rules. There is everything from the purchasing policies of the provincial liquor commissions on up.

Senator Grosart: To what extent is either side using the taxing power as a non-tariff barrier? Is it the deliberate intention of excluding exports from one country to the other?

Mr. Brown: Between Canada and the United States there has only been a limited amount of this in terms of the basic income tax system. We of course have tariff barriers. A good deal of the activity relating to non-tariff discrimination has been at the state and local level where there have been non-tariff barriers, domestic preferences, and so on, that have restricted trade. At the national level they have been relatively small.

Senator Grosart: Between Canada and the United States there are currently roughly 100 complaints about non-tariff barriers. I was wondering what percentage of these are directly related to tax policies. DISC, for example, was largely an attempt to cut down the imbalance of trade between Canada and the United States.

Mr. Brown: To assist U.S. exports. It has been a bone of contention.

Senator Grosart: I said, "to cut down the imbalance".

Mr. Brown: Certainly, that is an issue that is still viewed with some apprehension in Canada. U.S. business is still enjoying the DISC rules in the United States. It certainly gives U.S. companies some advantages on exports that ours do not have. There is also the WHTC, and other rules. In Canada there is some view that our lower rates of tax on Canadian-controlled private companies, as well as some of our domestic incentives, are something of an effort to keep the Americans out and are, therefore, a tax barrier to freer trade between our countries.

Senator Grosart: Isn't there a danger in DISC that it will become permanent, largely because the Americans, whether coincidentally or not, have found that since they have imposed DISC their imbalance of trade—the one they were worried about and the first they had had this century—has more or less been resolved?

Mr. Brown: There have been some attacks on DISC. It seems to have survived. It may well be a permanent part of U.S. tax legislation. I do not think DISC had that much to do with getting rid of their trade imbalance; there were other factors, including a major increase in agricultural exports.

Senator Macnaughton: Could I interjet a question, Mr. Chairman? Senator Grosart mentioned difficulties in trade. Would you care to comment on the Buy American Act and defence production sharing?

Mr. Brown: I am not as familiar with those aspects as with other trade issues. At one point in the United States, particularly during the depression in the thirties, a large number of programs imposed domestic preference—"Buy American." In the years since then, in the fifties and sixties, a large number of these programs were dismantled. Indeed, the United States went into defence sharing and other arrangements. There clearly exist—and it was referred to by one of the Senators—some growing feelings of nationalism or protectionism in the United States related to the alleged loss of U.S. jobs in a variety of ways. You can see it coming back. I do not think it has been actively supported by the present Administration in the United States, but it is certainly the type of political issue that is being considered more and more.

Senator Macnaughton: It is being used as a tool for industry development.

Mr. Brown: Very much so. In some sense the industries in the United States, as a matter of policy, are determined to keep a large proportion of their defence effort and requirements at home, for security or other reasons.

Senator Connolly: In the first segment of our reference we dealt with relations across the border at the official level. We talked about the developments as a result of

diplomatic activity, official activity, ministerial visits and conferences, at the deputy ministerial and official level, and lower. Now we are talking of another area. Because the GNP in both countries is so largely in the private sector this is of most concern to us in this part of the inquiry. I wonder if I am right when I say that a good deal of the discussion about Canada-U.S. relations, on the part of the public, deals more with the official level of interchange, while in fact the part that makes these statistics, that puts the commercial relationship together, is almost exclusively within the private sector. What you are talking about today is very often the factor which determines whether the deal will go through or not. The private sector is a very important thing in our dealings with the United States.

Mr. Brown: That is correct. Relations in the private sector are generally very good. Canadian businessmen get along very well with U.S. businessmen. There is no insurmountable cultural or language problem. Businessmen in the private sector react to the public sector.

Senator Connolly: The climate is set by the public. I do not mean by what I say Mr. Chairman, that everything the private sector does is right. Within the private sector in this country and in the United States we probably find the majority of the ablest people in our country. This is a great national resource; it is a natural resource. To remember that as we write our report is going to be important to this committee.

The Chairman: Thank you, Senator Connolly.

Are there other questions?

Senator Riel: I am following with great interest the proceedings of this committee. It is my first visit to this committee, and I am very impressed.

Senator Connolly: Come back.

Senator Riel: I have no questions.

Senator Rowe: It is almost axiomatic that one of the problems the American investor has when confronted with Canada is that there are at least 11 governments here that the American investor might have to be concerned with. Certainly he has to be concerned with two on every occasion; if it is a widespread operation, he may well be concerned with all 11 governments. That is one of the inevitable problems under a government system such as we have.

Mr. Brown: Yes. It is unfortunate. Although the United States has a federal system, they do not have the degree of economic independence and do not as a matter of practice use their taxing powers as broadly and radically as is the case with the Canadian provinces. The American businessmen may not appreciate the diverse nature of our country and the fact that different provinces will go their own ways in important areas. Just to see some of the irritations, you can look at issues such as the Saskatchewan potash, and resource issues in provinces such as British Columbia. In Ontario, for corporation income tax purposes, a portion of the royalties paid by Ontario companies to parent companies abroad is disallowed. These issues are a major irritation to U.S. investors and companies. They speak to the U.S. government about it. The U.S. government no doubt speaks to the Canadian government about it. But I cannot really resolve the issue because it is a provincial matter.

Senator Rowe: A good example of that occurred in Newfoundland last year in respect of Brinco and the Churchill Falls development. That was mostly American money. I think it was 70 per cent American money. There were 21 corporations making up Brinco. The total investment was something over $1 billion. They had to deal with both governments; and almost overnight, just as things were going sweetly, they were nationalized by the Province of Newfoundland.

The Chairman: I was going to make a facetious interjection. If the project is unsuccessful, you allow the private investor to lose; if it is successful, you take it over.

Senator Rowe: I, for one, thought that nationalization was completely unnecessary and morally wrong. These people came here in good faith. Almost overnight they were nationalized. I could see this would have a great effect on others. If I were an investor on Wall Street, I would think twice before I would invest another billion dollars in Labrador, or anywhere else in Canada. That took place with very little warning and no apparent justification.

Senator Riel: It is not a question of tax. What is going on in Saskatchewan may have started with the question of tax. We must remember that we haven't anything in our constitution for the protection of private property. In the American Constitution private property is protected and sacred. From province to province the laws are different. You started to say, at the very beginning of your testimony, that after you total all the Canadian corporation taxes, the total is about the same as the U.S.

Mr. Brown: At the beginning of my remarks I said that from our pulp and paper study the aggregate amount of taxes paid by a Canadian corporation was roughly comparable to the aggregate amount of taxes paid by a U.S. company, but the tax mix in Canada is of such a character that it has a more adverse effect on the Canadian companies. Even though they may pay the same taxes as the U.S. companies, they wind up with lower profits. That seems strange. You have to really work through models and computer studies. It is the fact that so much of our tax is a "front-end" load. It is a tax on the initial stages of a company when it may have to borrow money. It has a permanent depressing effect on profitability. Even though the government does not get any more in taxes, the industry gets less in profits.

The U.S. tax system is very heavily biased towards a tax only on profits. It means that if you are not earning money at the front end of the investment, you are not paying many taxes. I might say that the tax systems in Europe and Scandinavia are even more biased towards a tax which is solely a tax on profits and very little of any other type of tax whatsoever.

Senator Macnaughton: Mr. Chairman, I have an amusing note which I perhaps could read. It concerns whisky and, after all, whisky is an important trade of ours.

> Whisky, a major Canadian export item to the United States, is subject to a discriminatory excise tax system against whisky in bottles.

Is this against all whisky imports in the U.S., or only against Canadian whisky?

Mr. Brown: I am not an expert in the field. It is my understanding that it is against all spirits imported into the United States. Under their tariff arrangements, there

is an advantage in importing it in bulk and bottling it there, rather than importing it in bottles.

Senator Macnaughton: It would apply to the other countries, too.

Mr. Brown: Yes. It would apply to scotch in the same way.

The Chairman: It would be a clear offence under GATT for it to be otherwise, would it not, Senator Macnaughton?

Senator Macnaughton: Yes.

Mr. Brown: These are the types of non-tariff barriers, and there are many of them, that do exist between our two countries.

The Chairman: I have no further names on my list at the moment, honourable senators. I wonder if I might be permitted to pursue one or two questions with Mr. Brown.

You have left me with a clear impression of the difficulty of saying, industry by industry, just precisely what the impact of tax is because of the variety of taxes and the different methods and levels at which they are applied. Yet, for our study of Canada-U.S. trade relations, we are trying to get a picture of the relative tax between the two countries, particularly insofar as concerns manufacturing and business, generally, as opposed to individuals. I wonder if any study has been done, or if there would be an intelligent way to go about it. You mentioned the percentage of total government take in gross national product. I saw a figure the other day which indicated it had risen to a high of something in the area of 44 per cent. I do not know if that is accurate. In the United States I believe it is substantially lower. It is fairly easy to break down municipal, federal, provincial or state tax into, generally, corporate tax, individual tax, and others. If you took the tax of the two countries as a percentage of gross national product, and then took out of that equation corporate tax, could you not arrive at a reasonably close approximation of what the effect in Canada on companies was, as opposed to the United States? I suppose not entirely, because you would then have to go to municipal tax levels, but would it be a helpful exercise?

Mr. Brown: In a broad problem like this you have to approach it in a number of ways. Some of the difficulty is that corporate profits can be a different percentage component of gross national product in Canada and the United States. They may tend to be somewhat higher in the United States. The fact that the U.S. gets more corporate tax revenue may be related to the fact that they have more corporate profits. U.S. corporations have huge pools of investment capital that they apply in the U.S. and around the world. We do not have that to the same relative extent. The only way that we found that you could get a good handle on it was to use a very elaborate model in which you try to take account of all taxes and not just the corporate income tax.

The Chairman: Which is what you did in arriving at the value judgment that you have given us. Our taxes are a little more repressive in Canada because of the structure rather than the total.

Mr. Brown: Yes.

The Chairman: I suppose it is a deduction that you do not need a tax expert for, although I would like your comments, but is it a result of having a more difficult time in developing capital formation in Canada?

Mr. Brown: That is correct.

The Chairman: At a time when we need capital in Canada and are importing a great deal of it.

Mr. Brown: That is correct.

The Chairman: Could you elaborate on that? Is there anything you would like to add?

Mr. Brown: It comes from a number of areas. If you want to take just one, which is a seemingly innocuous one, take the sales tax. In Canada we have a federal sales tax and a provincial sales tax. In addition to being imposed on consumer purchases, they are also imposed on a lot of the cost inputs into businesses. These are goods, equipment and supplies that businesses have to buy. This raises the cost of doing business and has to be passed on to consumers. Furthermore, to the extent that these taxes apply to building materials for new plants, machinery and equipment, they raise the capital cost of projects. They raise financing costs. Additional interest expense is therefor incurred all the way through. If you look at the sales tax system in Sweden, which is the best example, it is a value-added tax. While it is complicated, the net effect is to completely exempt all Swedish companies from all sales tax cost on inputs. It is right down to the sales tax on a pencil used by the auditor. All of this is completely tax free. In Canada the tax impact is there. Over a period of time, the difference in the tax burden results in a significant difference in profitability for the industry. When a business is expanded or started, more capital is needed to do the same job.

Senator Connolly: I do not know how the Swedes do it. You take a piece of sophisticated machinery going into a new plant. As I would see it, the manufacturer would add value to the raw materials that he put into that. Would there not be a tax addition there? Then when it gets into the plant it is part of the capital cost. How do you eliminate it?

Mr. Brown: Under the value-added tax system that is frequently used in Europe, you are quite right. If the manufacturer of equipment adds value, there is the tax on that. The tax is always shown on the sales invoice of the equipment. If the purchaser uses it in a business, he is entitled to an immediate and complete refund of the tax. Tax is charged on the equipment and everything else that a business uses. But if it is bought for a business and the invoices are recorded as an expense of the business, there is a complete and automatic refund.

The Chairman: I have a question closely related to that, involving tax on machinery coming into the country. It is a question related to the forestry industry in my own province and the pulp and paper industry which you have studied. I have obviously been in receipt either of some faulty information or the lumber industry is different from pulp and paper. A commonly used ball-park figure in British Columbia is that our forestry industry, when you calculate all the taxes together, does not get the processing advantage of pulp and paper. This could be part of it. It is taxed at something over 50 per cent. Its competitors in the state of Washington, next door, who are obviously harvesting the same types of trees, are paying a gross tax, including everything, of 35 and 36 per cent. Can you comment on that?

Senator Connolly: I think it is very interesting to have that on the record.

Mr. Brown: Your comparison is probably valid. In the detailed report on the pulp and paper industry, we did analyze the Canadian industry on a regional basis. One of the biggest differences in total tax burdens (excluding wage and salary taxes) was in the comparison of the position on the west coast between the industry in Oregon and Washington, and that in British Columbia. There are a number of reasons for this, but in the forestry industry operations, the actual operations in the woods, the U.S. industry was able to benefit tremendously from the capital gains treatment which has provided for their gains on realization of timber. This can cut the effective rate in the northwest of the U.S. down to around 35 per cent. That was much lower than British Columbia.

The Chairman: Where it is over 50 per cent.

Senator Connolly: A 15 per cent difference.

Mr. Brown: Yes; and we sell in the same world market.

Senator Connolly, I am coming back to your original question. That is very important question. You asked about trying to shake out the tax take as between the two countries.

The Chairman: If we could get to that, it would certainly be a great help to us. The component in that industry figure I just mentioned, Senator Connolly, was this point that you raised only a moment ago, and that is sales and excise tax, because a lot of the machinery purchased by the forest industry in British Columbia comes from the United States. It has the impact of our federal sales tax at 12 per cent, plus whatever tariff is on that machinery. They buy machinery at one and one-half times the cost of their competitors in Washington and Oregon, and they have to turn around and compete with the U.S. on world markets. I wonder if that sales tax and those tariffs would be in your figures of a total tax.

Mr. Brown: In our pulp and paper industry study, we took account of differences in taxes only, including sales and other taxes. We did not take into account tariffs or differences in other cost inputs, such as wages, labour, and so on. We were attempting to identify the tax system difference and not an overall cost difference.

The Chairman: So the tariff on machinery would not be included in that; the sales tax on machinery would?

Mr. Brown: Yes.

Senator Connolly: Do you think , if the Swedish system were applied here, that there would be a very substantial adverse affect on the revenue?

Mr. Brown: The effect on the revenue depends on your tax rate. If you applied the European type value-added tax in Canada, what would happen is that you would tend to make Canadian industry more competitive at home and abroad. You would also tend to shift a larger percentage of the sales tax burden directly to the consumer. These results are inescapably linked, if you are going to raise the same amount of revenue.

The Chairman: I think it is important that we confine ourselves to our tax structure relative to trade with the United States, and our general trade and competitiveness in this area. We cannot go wandering off into a general resumé of our tax system.

I wonder if it would be a good point to ask you, just following the heavy additional burden on the B.C. forestry industry, for example, if you could pull together in one statement the various things which have been in the thread of your evidence. So far as I have picked them up, our tax structure, in total, is probably higher than the United States', when you take the manner in which it is applied and the degree to which it is or is not effective in enabling our companies to be lean and competitive.

Mr. Brown: There are two issues here. One is the level of taxes in Canada. Canada does tend to have a relatively high tax structure. It may be higher, on average, than that in the United States. The level of taxes in a country is very largely determined by what that country wants to do in the way of programs for its citizens, and other areas in which governments spend money. The second issue is the efficiency of the tax system. I would argue that Canada probably has a relatively inefficient system in that to raise a given amount of revenue it imposes more burdens on industry than the tax systems of other countries do on theirs. Our tax system costs industry more than it raises in revenues for the governments. That is due to the structure of the system. This, in turn, gets down to the basic issue, which is productivity. Our tax system does not help and, indeed, hinders the aggregate level of productivity in Canada and trends to make our products have a more difficult time in world markets.

The Chairman: While it would be a complicated adjustment to change the system to make it more efficient, would your general thrust be towards the area of taxing profits, rather than front-end loading?

Mr. Brown: Very definitely. You can raise a proper claim by governments for the taxation of business profits when they are earned and as they are earned. Probably more of our tax burden should be shifted to profits and away from other taxes which have to be paid whether or not the business makes a profit.

The Chairman: Earlier in your remarks you mentioned the Burke-Hartke, proposals for tax changes in the United States. These are aimed mainly at the multinationals because of the concern that they are exporting jobs. This could also have a bearing in Canada, although we have fewer multinationals. Is that not a dangerous course for the United States to embark upon, because surely if you go after an American multinational for developing a factory in Taiwan to make transistors, you are not bringing that transistor factory back to the United States. You are encouraging others to get into Taiwan and operate the transistor factory, with the result that multinational will not to be competitive with them.

Mr. Brown: That is definitely the case. People who are concerned about foreign investments exporting jobs really do not realize that in this highly competitive world if domestic companies do not go abroad and do something, companies in, some country will, provided the production you are talking about is economically viable. If there are cost advantages in Taiwan in electronics, somebody is going to exploit them. It is a question of who. You are not going to save your domestic market by preventing your companies from doing it.

This point is applicable to Canadian-based multinationals, too. We do not have as many of them and it is not

relatively as important. In at least some cases there are activities outside of Canada that are far from hurting Canadian jobs, and, in fact, they give us opportunities for employment here and exports that we would not have if these operations were not conducted around the word.

The Chairman: My last question is to ask you for a comment on Sweden. My information is not that of an expert, but only what I have heard. It is that the Swedish corporate tax rate is very low. I have heard figures of 20 per cent. I realize that the total government take relative to the gross national product in Sweden is very high, because of the very high level of social intervention by the Swedish government. Do they get that high level of taxation from individual income tax and other areas individually, and leave their companies with a low corporate rate so as to be lean in their export markets? You have already mentioned that they do this in sales tax refund.

Mr. Brown: Sweden has very onerous tax rates on individuals. It has a general income tax that would be reaching marginal rates of 50 per cent at around $10,000 per year of income, and continues right on up. It has an annual wealth tax which is imposed as a percentage of aggregate wealth, in addition to the tax on total income. These two taxes are very heavy burdens on individuals. But the nominal corporate tax rate, is about 50 per cent, combined national and various local levies. The base on which it is levied is reduced by all sorts of deductions. There is an investment reserve system which is very complicated but essentially allows Swedish companies to effectively charge off the cost of new plant and equipment, in some cases even before they have paid for it and before the plant is built. It is a pre-deduction for certain investments. In addition to that, they have inventory reserve systems which allow Swedish companies to write down inventories by large amounts. This reduces the income on which they have to pay tax. As a sort of extreme over generalization, it could be said that Swedish companies, on the whole, do not pay tax on any more profits than they are required to declare in order to cover their dividend payments to shareholders. Most other profits can be dropped into one or another type of reserve and escape immediate corporate taxation.

Sweden has a tax system which is heavily biased towards individual taxes, and towards a very light burden on retained corporate earnings. The effect is to provide a substantial incentive to the corporate sector. Swedish companies, on the whole, have been very vigorous exporters and have done very well around the world.

The Chairman: The reason I have asked that question is that you often hear Canadians say, "Why can't we be like Sweden with their efficient steel industries, and the rest?" and yet they have a welfare state even bigger than Canada's. I think we have just had an answer.

Senator Connolly: That is a great answer. Despite this relatively easy tax burden on the corporate organization in Sweden, they still are a fairly socialized state.

Mr. Brown: They are socialized in the sense that they have a very comprehensive social welfare scheme. They have all sorts of benefits which are provided to individuals. They are also socialized in the sense that although the bulk of the Swedish economy is run by private enterprise, there is a greater degree of government intervention in that economy. It is done through government influence on Swedish companies, both through the tax system and other controls, and a very direct influence simply by governement talking to industry and influencing what is done. In Sweden, for example, you would not find any major company making a major new capital investment without clearing it, at least informally, with the government in advance. That would be a routine matter.

The Chairman: Is it evident from your study of the Swedish economy that they quite deliberately concentrate on a small number of large and efficient industries, such as their renowned steel, ball-bearings and automobiles, as opposed to trying to make one of everything in Sweden?

Mr. Brown: The influence in Sweden has definitely been to build up vigorous manufacturing sectors by concentrating on some of the things that they can do best. Pulp and paper and timber has been one of these sectors. They have also concentrated on specialty steel products, and on certain types of aircraft. In the automotive industry, Sweder has two companies, not five, six or eight. There is a limited number of models for those two companies. It has been a specialization which they are required to do in order to make the country efficient.

Senator Connolly: You could not sell that idea in North America.

Mr. Brown: Our approach is somewhat different. I am not sure that you can get Canadians to drive only one of two different types of car.

The Chairman: In relating that Swedish experience to Canada you can, of course, draw the parallel that if we had access to the whole North American market, we might have a smaller number of industries operating much more efficiently, rather than such a large number trying to produce one of everything in Canada.

Senator Connolly: But then you do not take into account the fact that you have one fellow in Vancouver, one in Toronto, and one in Regina, all of whom want to start their own businesses. The private initiative factor in our society is really the determinate factor. In this day of government intervention, interference, call it what you will, there is resistance to that. With all of its inefficiencies, I would like to think that the free-entreprise system is better for the kind of people that we have in this country.

Senator McNamara: I am a little confused, although I appreciate very much the valuable information we have had. We are dealing with Canada-U.S. trade. The discussion today is regarding the effect of taxation on trade. The Americans are by far our largest market. We are their best market in the world. The two systems of taxation are affecting trade between our two countries too greatly.

Mr. Brown: Your remarks are correct. Each country is the other's best customer. The question is perhaps whether this trade could not be improved or expanded still further if certain tariff and non-tariff barriers on trade were removed. Also, the question is perhaps whether Canada could not obtain a larger share of this trade if our industry were more competitive and productive. A lot of factors go into productivity and competitiveness in international markets. The tax system is one component.

Senator McNamara: Is this a major item, or just minor?

Mr. Brown: It is a major one. I would agree that other aspects, such as labour rates and other cost factors, are as important and, on occasion, more important than the tax

component. Perhaps the difficulty is that in the tax system we have a variable that we can work with. Governments can control the tax system. It is a great deal more awkward to attempt to control wage rates, as we are finding out. It is virtually impossible to control such factors as additional cost which are incurred because of our climate. This is a factor which probably adds another per cent or two to our costs in the pulp and paper industry alone, relative to the costs in the U.S. southern pipe forests. Perhaps one view is that we should concentrate on the things that we can control. These are the only opportunities available to us to increase our productivity.

Senator Rowe: Is there less private enterprise, less initiative, in Scandinavia, generally, or Sweden, than we have in Canada?

Mr. Brown: I cannot qualify as an expert on that. I can only give you my opinion. There is probably less initiative, from what I have seen, in the area of small business or small investors. It is difficult to accumulate capital under the tax system in Scandinavia. It is not as easy to break into a new business. It all depends on how you mean "initiative." If you mean initiative in the sense of the willingness of the industry that is already there to make new capital investments and explore export markets, some of the larger companies in Sweden have a tremendous amount of initiative. They are making major capital investments and are searching the world for investment markets.

Senator Rowe: This is what I was hoping you would say. I get the impression at times that Sweden, and Scandinavia generally, are being criticized by implication for being a welfare state, or as near to being a welfare state as possible. You mentioned earlier that the tax on the individual in Sweden is one of the highest certainly in the Western world, and probably one of the highest anywhere. It is not enough to say that. For argument's sake, let us say it is 50 per cent income tax. It is not enough to say that my equivalent in Sweden is paying 60 or 70 per cent. Things are entirely different in Sweden. My counterpart in Sweden has far greater benefits in being looked after by this 65 or 70 per cent. We in Canada individually have greater benefits than some of our counterparts in the United States. The example I would use is that one of my grandchildren recently had to have prolonged heart surgery of a very serious nature in the Children's Hospital in Toronto. My son figured out what it would cost in the United States. In Canada it cost him virtually nothing, because it was covered under Medicare which, of course, we sustain by our taxes. In the United States his cousin living in Massachusetts would have to pay $60,000 for the equivalent attention to his child. It seems to me that these things are relative, Mr. Chairman.

The Chairman: I think we all agree with you completely so far as the nation as a whole is concerned. I believe Mr. Brown was not addressing himself to our total level of taxes in Canada, not the taxes we choose to levy upon ourselves as individuals, such as local sales tax, and things of this sort. His remarks were confined to our levels of corporate tax, and the effects on our manufacturing and other export industries that need to be competitive in the world. In other words, it is a question of where you take the tax. I quite agree wih you that a Canadian can be better off even though more highly taxed because it comes back in the form of Medicare. It is where that tax comes from to which we are addressing ourselves.

Mr. Brown: If I may say so, the point about Sweden is that you can have a country which can provide as generous a level of social benefits as you would want to have in most countries, without adversely affecting the competitiveness of their industry. It requires a particular and biased tax system to accomplish this. You can have huge government and welfare programs without adversely affecting the competitiveness of your industry. You have to design the tax system to do precisely that.

Senator Connolly: I think that is an important point.

The Chairman: This is what I have taken out of this, Senator Connolly, more than anything else. As a great trading nation, maybe we should look very hard at our tax structure and methods of imposing and calculating that tax insofar as our industry is concerned.

Senator Connolly: Having particular regard to our relationship with the Americans.

The Chairman: That is where 70 per cent of our trade is. It may be helpful if members of the committee would keep in mind that as we ask industry leaders to come before the committee, that some of their evidence be related to this very subject of different taxes in the case of each industry.

Mr. Brown: Yes. It is a variable and it is within our policy parameter to deal with.

Senator Connolly: Mr. Chairman, as a committee we may have to come back to the question of not surrendering our sovereignty over taxing policy but, especially with the United States, recommending some kind of relationalization which might have the effect of accomplishing the purpose you have just described. Could that ever come about? This is philosophizing.

Mr. Brown: There is an issue in international tax policy related to the different tax systems in different countries. An argument which was put forward by the Americans, amongst other people, is that there should be border tax adjustments because of different tax systems. In its very simplest form, the Americans would say that if the Swedish tax system does not put a large amount of tax input into Swedish exports, when those exports get to the U.S. where the American tax system does put a lot of cost into their manufactures, then the U.S. should have the right to make the border tax adjustment and put a special tax on the Swedish imports in addition to the normal tariff. This approaaoch would require countries to analyse the tax system of every country around the world and make various adjustments for various goods coming from different countries. This approach has run into unalterable opposition in Europe and other places. It is extraordinarily complex and it is an open invitation for every country to manipulate it at will to bar imports. If you are looking for international harmony, it is more likely to come through bilateral agreements on various matters, plus each country trying to make their own system more efficient than it is through some universal system of adjustments at borders to take account of all of these different factors.

Senator Connolly: You would have to do it case by case, country by country.

The Chairman: One other note that I have, Senator Connolly, is that during Mr. Brown's earlier testimony he mentioned that state taxation was not alarmingly, radically different from state to state, and radically in conflict with the federal. I wrote down the word "radically"

because I think it is true that the average government in the United States, including the state governments, are more likely to think in business terms than provincial governments in Canada. This also makes a difference.

Senator Grosart: I want to raise one point, Mr. Chairman. You will recall the discussion we had about non-tariff barriers and the five GATT books. I have had a summary made of Canada versus U.S. and U.S. versus Canada complaints. I wonder if the committee would like to have them attached to our proceedings. They give a rather broader picture of the non-tariff complaints between the two countries than we were given in evidence. To give you an example, Part I is Government Participation in Trade, Canada versus U.S., the Western Hemisphere Trading Corporation, counterveiling duties, restrictions on use of imported goods and materials, activities by the U.S. labour unions to restrict imports. In the margin are the countries that have joined Canada in those complaints.

The Chairman: That would be most useful. If members of the committee agree, we will arrange that that be appended to the proceedings of the NTB meeting we had last week.

Senator Grosart: Interestingly, it shows Canadian complaints in this field are far greater than American complaints against us.

The Chairman: Honourable senators, thank you very much. Before adjourning, I thank Mr. Brown for having come all the way from Toronto to give us a most enjoyable and illuminating afternoon. Thank you very much for your time and trouble.

The committee adjourned.

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THE SENATE OF CANADA

PROCEEDINGS OF THE
STANDING SENATE COMMITTEE ON

FOREIGN AFFAIRS

The Honourable ALLISTER GROSART, *Deputy Chairman*

Issue No. 29

THURSDAY, MARCH 25, 1976

Twenty-seventh Proceedings Respecting:

Canadian Relations with the United States

(Witness: See Minutes of Proceedings)

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THE STANDING SENATE COMMITTEE ON FOREIGN AFFAIRS

The Honourable George C. Van Roggen, *Chairman*

The Honourable Allister Grosart, *Deputy Chairman*

and

The Honourable Senators:

Asselin	Lafond
Barrow	Laird
Bélisle	Macnaughton
Cameron	McElman
Carter	McNamara
Connolly (*Ottawa West*)	Rowe
Croll	Sparrow
Hastings	Yuzyk

Ex Officio Members: Flynn and Perrault.

(Quorum 5)

Order of Reference

Extract from the Minutes of Proceedings of the Senate, Wednesday, November 6, 1974:

"Pursuant to the Order of the Day, the Senate resumed the debate on the motion of the Honourable Senator van Roggen, seconded by the Honourable Senator Riel:

That the Standing Senate Committee on Foreign Affairs be authorized to examine and report upon Canadian relations with the United States;

That the Committee be empowered to engage the services of such counsel and technical, clerical and other personnel as may be required for the purpose of the said examination, at such rates of remuneration and reimbursement as the Committee may determine, and to compensate witnesses by reimbursement of travelling and living expenses, if required, in such amount as the Committee may determine;

That the papers and evidence received and taken on the subject in the preceding session be referred to the Committee; and

That the Committee have power to sit during adjournments of the Senate.

After debate, and—
The question being put of the motion, it was—
Resolved in the affirmative."

Robert Fortier,
Clerk of the Senate.

Minutes of Proceedings

Thursday, March 25, 1976
(35)

Pursuant to adjournment and notice, the Standing Senate Committee on Foreign Affairs met at 9:34 a.m. this day, with the Honourable Senator Grosart, the Deputy Chairman, in the Chair.

Present: The Honourable Senators Grosart (*Deputy Chairman*), Barrow, Carter, Connolly (*Ottawa West*), Croll, Lafond, Laird, Macnaughton, McElman, McNamara, Rowe and Yuzyk. (12)

Present but not of the Committee: The Honourable Senators Desruisseaux, Petten, Smith (*Queens-Shelburne*) and Smith (*Colchester*). (4)

In attendance; Mrs. Carol Seaborn, Special Assistant to the Committee; Messrs. Bill Neil and Robert Robichaud, from the Library of Parliament, Research Assistants to the Committee.

The Committee continued its study of Canadian Relations with the United States.

Witness: Mr. Carl Beigie, Montreal, Quebec, C. D. Howe Research Institute.

Agreed,—That certain charts, to which the witness referred, be included in the printed proceedings at the point of reference.

The Deputy Chairman requested that a summary of Canada-United States non-Tariff barrier problems be distributed to Committee members (*Note:* That Summary is appended to Printed Proceedings No. 27).

At 12:00 noon the Committee adjourned to the call of the Chairman.

ATTEST:

E. W. Innes,
Clerk of the Committee.

The Standing Senate Committee on Foreign Affairs

Evidence

Ottawa, Thursday, March 25, 1976

The Standing Senate Committee on Foreign Affairs met this day at 9.30 a.m. to examine Canadian relations with the United States.

Senator Allister Grosart (*Deputy Chairman*) in the Chair.

The Deputy Chairman: Honourable senators, we have the good fortune to have with us this morning Mr. Carl Beigie, who is the executive director of the C.D. Howe Research Institute, which, as many of you will know, is an organization which amalgamated with the Private Planning Association some years ago, at which time Mr. Beigie became the executive director of the C.D. Howe Reasearch Institute, having already been a distinguished member of the Private Planning Association's staff, and particularly the staff of the Canadian Economic Policy Committee. I have had the good fortune to know Mr. Beigie for some years, as I am a member of that latter committee.

The C.D. Howe Reasearch Institute sponsors three committees, the Canadian Economic Committee, the Canadian-American Committee and the British-North American Committee. The Canadian-American Committee of the Institute has been in business for nearly twenty years, and over those years has made a very important contribution to the understanding of Canadian-American relations.

I have asked Mr. Beigie to give us a brief rundown of the work of that committee, particularly in view of the fact that at the present time it has under way a series of six studies of Canadian-American relations, and Mr. Beigie will be the supervisor of that series of studies.

Mr. Beigie is one of our most distinguished and, certainly, most articulate Canadian economists, and one who has always taken a very broad view of Canadian problems and opportunities, internally and externally. Those of us who have read the work that he has done, his writing and those he has supervised, will know that he comes down with a very even hand, on the various sectors of the economy—government, labour and business. He has the reputation of not pulling his punches, and that, of course, is the reputation of the Institute, as those of you will know who have read what I think is one of the most outstanding contributions made in recent years to understanding the present situation in Canada—namely, the publication "Challenges to Complacency", written by Ms. Judith Maxwell but under the auspices of the Institute.

I take pleasure in introducing Mr. Beigie to you, and I ask him to follow our usual procedure by making an opening statement, after which I shall be calling upon Senator Lafond to lead off the questioning.

Mr. Carl Beige, Executive Director, C.D. Howe Research Institute: Thank you very much, Senator Grosart. It is a very great privilege for me to appear before this committee today. I would say at the outset that we have been following with very great interest the work of this committee. I would particularly extend, on behalf of the Institute and the Canadian-American Committee, very sincere congratulations to the committee for Volume 1 of its studies of the Canada-U.S. relationship, dealing with the institutional framework for the relationship.

I have just returned from a meeting in Dallas, Texas of the Canadian-American Committee, and a number of the members came up to me during the course of the meeting making very complimentary comments about this volume, in terms of its clarity, with respect to its logic, the writing style and its presentation format. I was, in fact, put in an embarrassing position on several occasions in Dallas by members who would say, "Why can't you write that clearly?" It was presented in a very clear format, and the conclusions and recommendations were viewed as very constructive and helpful in the relationship.

Senator Macnaughton: We won't let you take our staff!

Mr. Beigie: As Senator Grosart has mentioned, the C.D. Howe Research Institute, which was established back in the early part of 1973, sponsors three committees, one of which is the Canadian-American Committee. It is sponsored in turn in the United States by the National Planning Association.

On the committee we have approximately 100 members balanced equally between Canada and the United States, and representatives on the membership include business, labour, agricultural federation leaders, and a number of professional individuals in academic fields in particular.

The committee has met twice each year since it was founded in 1957 and it has published about 40 background statements and studies on various aspects of the relationship. In the last year or so the committee has moved in a direction of the sort, I think, that is recommended by volume 1 of your report. We are now turning out a series called "Backgrounders," which tries to deal promptly and factually with some of the major issues which either have arisen or are likely to arise in the relationship. You will be seeing within the next few months another major new publication of the committee, called "A Biennial Report," on the State of the Canadian-American relationship. What we seek to do in this biennial report, a draft of which I have with me this morning, is to seek a broader perspective against which to evaluate the Canadian-American relationship.

It is the feeling of the committee and of the staff that public perceptions of the bilateral relationship are being shaped by dramatic accounts of individual irritants which emerge, rather than a clear and consistent perspective of how the relationship evolves and what it has to contribute to both countries over time.

The interests of the committee have focused mainly on trade, investment, and also in recent years considerably on energy and on agricultural issues.

The committee, I want to say straight out, is not, as some of its critics have contended, a continentalist organization. It is not a group which seeks to promote free trade, energy continentalism or anything of that sort. The members are of such a diverse nature that it would be impossible to obtain consensus on anything like that, but if there is a consensus in terms of our approach it is in terms of rationalism. What the committee has done over time is to seek approaches that are mutually beneficial to our two sovereign nations. I think that in capsule form the only general term that it is appropriate to apply to the committee is, "rationalist".

Finally, just by way of background, as the Chairman has indicated, we have underway a major new program under the title of "Canada-U.S. Future Studies." It is a six-part program which will include a number of the most senior authors in the area of Canadian-American relations from both Canada and the United States in the fields of economics and political science. It is a project which is being supported in Canada by the Donner Canadian Foundation, and in the United States by the Rockefeller and Ford Foundations. We seek to have a focus on what the practical options for the relationship are, ruling out the extremes of complete integration of the two countries and complete separation of the two countries. It is an attempt to get, in a very practical way, into the kinds of approaches necessary to handle some of the problems that I will lay out briefly in my opening remarks this morning.

We intend to have the studies come along on a phased basis starting in 1977, and we will have the entire project finished by the end of 1978. I must say that I hope there will be an opportunity to integrate with the activities of this committee as the research proceeds so that there can be a dissemination of the results with people who are actually closely involved in the evolution of this relationship. I would welcome that opportunity.

It is premature to announce it at this time, but I should like to indicate that we have also underway in a preliminary stage a similar major study on the question of critical raw materials in the future of the Canadian-American relationship that we will, I hope, be able to announce in the near future as having achieved sufficient funding to proceed.

I should like to begin now with a brief overview of trade ralations between Canada and the United States. I will be focusing on some key elements in this relationship, but I hope you will feel quite free to ask almost any question on this, because we have studied over the years a great range of trade topics in the relationship.

In order to bring some order to my opening remarks, I should like to suggest first off that there are essentially three different ways to look at the trade relationship between any two countries. The first is in terms of the overall level of trade—just the gross movements back and forth between the two countries of goods and services. The second perspective from which you can examine trade relations is in terms of the net trade balance. How do these flows back and forth all balance out in terms of the merchandise account in the balance of payments statistics that are reported? The third perspective, one which I think is particularly important in the Canadian-American relationship in contrast to relationships with other countries, concerns the composition of trade. In other words, what are the main components of the overall flow of trade between the two countries.

I want to take time to examine briefly each of these three perspectives in terms of the trends which have been taking place and some of the major issues that are of concern to both countries. But before getting into those three perspectives I should just like to sketch out for you some elements in the broader international economic environment that I believe merit attention as background to the relationship between the two countries.

As I travel in Europe and Japan—which I have been doing quite a bit of in the last year or so—it is becoming increasingly clear to me that there are growing challenges to the basic tenets of the post-war economic system. If I could highlight the four major tenets of the post-war evolution of our world economy, they are, first, an emphasis on multilateralism in trade and investment and other economic relations; second, a trend towards liberalization of economic exchanges between countries; third, a general willingness to rely on market forces to handle the evolution of trade patterns, investment patterns and so on—market forces as opposed to increasing intervention; and, fourth, a process of gradual rather than revolutionary change in our institutional framework, such as the International Monetary Fund, the GATT rules regarding trade and so forth. These have been the trends up until the past four or five years. All four of these basis issues—multilateralism, liberalism, gradualism and reliance on market forces—are coming under increasing pressure; and those major nations of the world economy which are hoping to see a continuation of basically amicable economic relations must be concerned with all four areas and the challenges.

The reason that this situation had evolved was that it was based on a clear and logically consistent set of principles. The problem today which the world community faces, and Canada and the United States face in particular, is that we do not have very good ideas about what is going to emerge from the challenges that are taking place to these fundamental tenets that have characterized our economic system over time. We are faced with emerging pressures from the third world. This is, of course, a subject of intense dialogue right now in Paris. We have pressures emerging in the industrial countries from the fact that we face a significantly slower rate of economic growth over the next decade than what we experienced in the decade of the 1960s. And for Europe and Japan to slow down in their rates of growth is even more dramatic because of the benefits which they experienced during the recovery from the second world war.

It seems to me, and I should like to take this up at some length in the question period, that as we all in the undustrialized world have become more rich, and our living standards have increased, we have come to treat efficiency as a rather second-class concept and notion. We have become less willing to put up with the pressures and the strains of improving mobility of labour and capital, with responding to the pressures for change that are emerging in the international community, and, as a result, all people in the industrialized world are demanding increasingly that governments intervene to protect them from the very market forces which have contributed so significantly to the increase in living standards of the industrialized world.

I am not passing judgment on these pressures, or on the responses by governments to them; I am simply suggest-

ing that in terms of an overview of what is going to be happening, it is important to have an understanding of these pressures, and the strains they are putting on traditional forms of response, because they are creating very difficult challenges to trading relationships around the world, and most particularly to the bilateral relationship between Canada and the United States. We have instead become more interested in such questions as fair trade, as opposed to free trade, viability in our balance of payments, and questions concerning general rules and principles. This is a subject I would like to come back to.

The role of government in this environment has become increasingly critical. Subsidies and non-tariff barriers to imports and exports have been proliferating at considerable speed, often outside the public awareness, in response to special interest groups, and the question is, how do you put all this together and get a system in which nations are going to deal amicably together within a set of rules and principles that makes sense over time? It is one of the most severe challenges that faces the international economic community at the present time.

Let me go quickly, now, to the three perspectives that I mentioned earlier. I will start with the perspective of the level of trade. Just how much trade is taking place? I would suggest that this is a perspective that you will generally hear about from economists. They are likely to focus especially on the over-all level of trade. I do not think I have to tell this committee that exports in the post-war period, both globally and between Canada and the United States, have expanded more rapidly than the gross national product, so that trade as a percentage of gross national product in most of the major industrial countries has been expanding over the post-war period. The advantages that the expansion of trade brings about are the opportunity to take advantage of larger scale economies and to increase the range of consumer choice.

I would contend that because of the liberalization of trade and the expansion of trade flows between countries, over the post-war period, it is no longer appropriate to consider the level of competition solely in the context of domestic producers alone. I feel very strongly that over time the level of effective competition that faces producers in most countries has increased because of the opportunity for producers in other countries to penetrate markets in the rest of the world.

I think it is extremely important, and something that we have to give more attention to, that Canada at the present time has more u nfulfilled potential for improving its productivity performance by expanding the level of trade, especially in the field of manufactures, than almost any other major industrial economy that I can think of. I think this is a very fundamental point, and I think it is the fundamental point of the Economic Council's recent report, "Looking Outward."

This is not only a question of our sovereignty ability to preserve our independence; it is a question that concern the level of efficiency and the level of economic wellbeing of Canadians. There are very serious—and I do not want to underestimate their seriousness—trade-offs that must be resolved between economic and other objectives, that any country legitimately has; but there are tremendous opportunities for this country, through an even further expansion of trade, to improve efficiency and economic well-being. It seems to me that you do not have to be a doctrinaire free trader, which I am not, in order to understand the potential benefits for a country like Canada for further substantial liberalization of trade. As the Council has pointed out, increased liberalization of trade for Canada only makes sense, and will only produce significant benefits, if a trade arrangement in this direction includes the United States. It does not need to be confined to the United States, but the United States absolutely must be included in this arrangement.

I would suggest that it is in the context of the over-all level of trade and the context of improving efficiency through movements of traded goods back and forth between nations that we should be considering the auto pact. The auto pact is, as you well know, an object of great criticism and concern on a variety of fronts. The clearest thing you can say about the automotive agreement with the United States is that it has resulted in very significant efficiency gains for Canadian automotive production. Everything else is subject to a lot of debate, but with regard to the increase in efficiency and productivity of Canadian workers in the auto sector there can be no legitimate debate. Nor is this the only sector where this is possible. In fact, in every sector where there are major durable goods, the advantages of the auto pact can be duplicated, although I do not think the degree to which they can be duplicated will be the same.

Senator Connolly: Would you mind mentioning some of those sectors?

Mr. Beigie: Yes. Electronics would be one. Industrial chemicals would be another. Almost all of the machine industries would be another. In aircraft manufacture we have a variant of it, under the various forms of contracts that are signed between the governments where there is subcontracting available on an efficient basis in Canada. I think electronics and telecommunications generally, which I regard as very high potential growth areas, are a sector where we could have substantial benefits.

Senator Connolly: I suppose that in the field of production sharing there is an element of it.

Mr. Beigie: That is correct.

Senator Laird: Wouldn't the availability of technology—that is, the ability to import outside technology—also be a factor in that?

Mr. Beigie: That is correct; but I think it critical to keep in mind—and I would like to give a little bit more background before I answer that question completely—that technology alone is not going to get you very far. You have to have the conditions that are appropriate to applying that technology efficiently. You can go out and buy all the technology you want, but if you have to put that technology to work along with factors of production—particularly the cost of labour—that are overprice in world markets, then you are not going to expand your export potential very much.

Senator Laird: Agreed.

Mr. Beigie: I will get back to that, if I may. I would particularly like to answer that question again, in just a moment.

Senator Rowe: Before we pass on, I should like to say that I was interested in your use of the expression, "We must include the United States in any expansion." You did not say, "could" or "should", but "must". What is the significance of the "must"? Do you mean that it is desir-

able, or a matter of common sense, or is there some compulsion to do so, in your view?

Mr. Beigie: It is not a question of compulsion. If the goal is to increase significantly the efficiency of Canadian production, then, given the relationship between our two economies, the differential between what we can potentially gain from further liberalization is far greater with the inclusion of the United States in an arrangement, than if it is excluded. I must say, senators, that I do not understand the Canadian government's initiative with respect to Europe. I have had questions asked of me on this subject before. If it is meant to provide a kind of security blanket, if you will, which will testify to Canadian sovereignty, that is fair enough, if that is the kind of thing we need; but I do not see Canada being able to go out to Europe and create a special trade arrangement whereby, all of a sudden, our manufacturing sectors' prospects are going to blossom. We produce exactly the same things that are produced in the United States, and we produce them under very much more expensive conditions. If we really want to expand trade with Europe, we are going to have to sell them the same resources that we are hesitating to sell to the United States. So my point is that if we really want to get these economic gains, then, from an economist's standpoint, we have to have an arrangement that includes the United States, just on a logical basis.

Senator Macnaughton: Mr. Chairman, put me down to contest that. That is for the sake of further discussion.

Mr. Beigie: Incidentally, I believe this fully, but I would suggest that the best analysis that I have seen of this in concrete terms is the one provided by Professor Wonnacott to the Economic Council of Canada for use in its report.

To continue with the case of the auto pact, it has been beneficial principally to our Canadian workers. I do not understand the UAW's attitude towards the auto pact, I must say, because the clear gainers from the auto pact have been the Canadian workers. Their efficiency has been increased in the order of 20 to 25 per cent. That is one of the few sectors of the Canadian economy where wage parity with the United States at the present time is fully justified or nearly fully justified on the basis of near efficiency parity between the two countries. In many other sectors of the economy where we are increasingly getting to the point of wage parity or even a wage premium as between Canada and the United States, the productivity just is not there to justify it.

Senator Carter: You say that the auto pact has been beneficial to the Canadian workers?

Mr. Beigie: That's right.

Senator Carter: But the American unions are opposed to the auto pact, aren't they?

Mr. Beigie: The UAW is very much opposed to the kind of flexibility which the Canadian government is being pressured to exercise in terms of the conditions of the auto pact, and the relaxation of them in order to get any kind of real quid pro quo out of the United States. The Canadian auto workers are extremely worried about any change in the conditions of the auto pact at this time except in a more restrictive direction—more protective. I would very much like to spend a great deal of time on the auto pact but let me just say that the two countries are at an impasse in this critical trade arrangement, because the Canadian Government wants to move further away from market forces and the United States wants to move closer to market forces, and I am too sure what "market forces" mean in an industry that is dominated by three firms. I do not know where the answer to the problem lies. I have tried to come up with something constructive in this agreement, but it seems that neither government has taken it very seriously.

It is true, and I think that the auto pact is an important demonstration of the fact, that there are trade-offs involved in terms of the economic gains, and it would be foolish for any economist to tell anybody in Canada that this is not the base. In the auto pact it happens to be that the independent decision-making that is exercised in Canada in the automotive industry has been reduced, and most sourcing decisions, decisons regarding where parts would be supplied, have been shifted to Detroit. But I must say that in this particular industry what we have lost is the independence to be inefficient, because that is essentially what we had in the auto industry before the auto pact.

Senator Carter: Would you say the auto pact has been more beneficial to Canadian workers than to American workers?

Mr. Beigie: No question.

Senator Carter: So they would not have as big a stake in it?

Mr. Beigie: No.

The Deputy Chairman: Honourable senators, I think in fairness to Senator Lafond, perhaps we should hold questions, unless they are for the purposes of clarifying some point, until Mr. Beigie has finished his statement.

Senator Macnaughton: The speaker is very provocative, Mr. Chairman.

The Deputy Chairman: I agree. I warned you at the beginning that this might be the case.

Mr. Beigie: Mr. Chairman, I consider one of my functions in being here is to suggest opportunities for further exploration by this committee, and in this context I would like to make suggestions under each of the three headings. In the heading of the general level of trade, the overall level of trade, I would like to suggest to you—and this is one of the things that we will be looking at over a period of time in our studies, but probably outside the time context of your own investigations—that it would be extremely interesting to take out from Canadian exports those that are dominated by resources and those that are dominated by special trade arrangements with the United States, and then see what you have. I think that you would come to the conclusion that Canada, while devoting a very substantial portion of its total economic activity to exports, is probably the least integrated, in terms of the world economic community, of any of the major economies of the world. By that I mean that it seems that what we can sell are our resources, and those things like autos and defence production for which we have some special arrangements with the United States. I would cite in this context that if you are going to be complete, you should take into account that a substantical portion of the apparent success of the Northern Electric Company to sell its products to independents in the United States is the result of a 1956 consent decree by Western Electric in the United States

not to sell. If you look at cost comparisons, Western Electric is significantly lower in its total cost than Northern Electric, although Northern Electric is able to sell because it does very well in terms of comparisons with third countries.

Senator Connolly: You just mentioned something that I did not quite understand. You mentioned a 1956 consent decree by Western Electric in the United States not to sell. Would you just tell us a little more about that?

Mr. Beigie: It will sell only to At & T essentially; it will not sell in the independent market in the United States into which Northern Electric is trying to make inroads, and it will also not sell in third countries. This is because of its size, and the concern on the part of the United States Government that Western Electric would use its power ot unfair advantage in other markets.

Senator Connolly: In other words, the implementation of that decree created a vacuum and Northern Electric was able to take advantage of it?

Mr. Beigie: That is exactly correct.

Senator Connolly: But it was not arbitrary it was imposed by a decree of the courts, I presume.

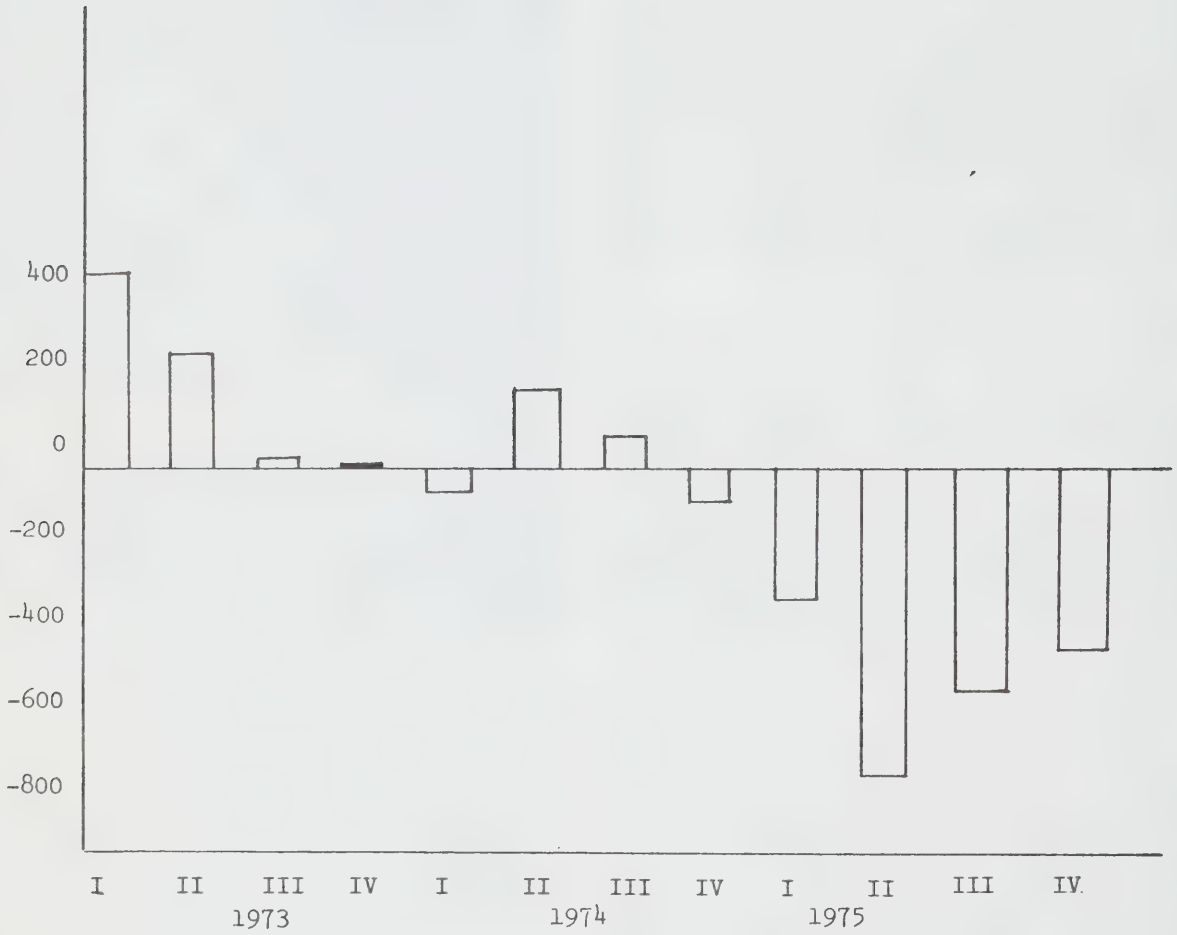
Mr. Beigie: Exactly, and I don't want to make any other point than that I think the object of the investigation would be to see, in the absence of resource advantage and in the absence of some kind of special non-market oriented type of situation, how Canada is doing in world trade in terms of manufactures and so on. It is not an encouraging story from the superficial research that we have been able to do. In other words, there are penalties for being inefficient, and I hope to get back to that in a little while.

The second perspective now is the netting out of these gross movements of trade and the trade balance, and while economists are very interested in the subject, the trade balance is, of course, what politicians would tend to put the greatest emphasis on when they examine trade relationships. The reason for that is that the trade balance has a great impact in terms of employment. The big deficit on the trade balance certainly gives the impression to unions and to most people who examine it that there is a deficit in terms of employment. This is exactly what we talked about in terms of the automotive agreement. The big deficit for Canada at the present time means that there is some unemployment for Canada that would not otherwise exist if we had a balance of trade. Back in the period from 1969 to 1972 it was just the other way round, and the U.S. workers were very upset about the fact that the Canadian deficit was gradually being eliminated. And then it moved into a modest surplus on the automotive account, and this is when the auto workers started to get upset and started to say, "Well, these jobs are being exported to Canada . . ." and so on. So the employment picture figures in here, also the exchange rate and policy flexibility. You know, when you have a substantial deficit, as Canada is finding out right now, the ability to run domestic policy in certain directions is severely constrained by the need to consider what the possible consequences might be in terms of an already difficult balance of payment situation.

What is it that determines the trade balance between any two countries? It is a complex picture, especially in terms of the Canadian-American relationship. It depends first and foremost, in a short-term sense, on the relative stage of the business cycle, and I have a chart here (chart 1) which shows that when the U.S. recession started in full swing back in 1974 the Canadian trade balance with the United States started going down and down.

CHART 1

Canada's Merchandise Trade Balance with the United States, 1973-75 (Seasonally Adjusted)
(million Canadian dollars)



Source: Statistics Canada, Summary of External Trade, various issues.

It reached a deficit of about $800 million, on a quarterly basis, in the second quarter of 1975. But then in mid-1975 the U.S. economy started to turn around, and with no lag whatsoever the Canadian deficit started to decline and our net trade performance has been picking up in the interim. So the size of the trade balance between any two countries is very much a factor dependent upon the state of the economies in the two countries; and, as you know, one of the reasons for our large deficit at the present time on the trade account is the fact that we were fortunate in having had a lower degree of economic slow-down than occurred in the United States, where they had a much sharper and deeper recession.

But over the long-term—and this is what I think is becoming an increasing matter of concern for Canada—the critical determinant of what happens in trade balance is relative production costs. That is a function of the exchange rate, and also our ability to finance deficits. One of the reasons why we have a premium dollar—I converted some money into U.S. dollars yesterday, and was amazed to find how strong is the Canadian dollar at the present time with such a huge deficit.

One of the main reasons is that we are willing to pay very high interest rate—about 500 basis points higher than in the short-term market in the United States. This is a very substantial attraction to U.S. and other money to come in and hold up our exchange rate. It is not going to happen forever, I am afraid. At any rate, the exchange rate is one critical determinant. Factor costs, especially labour, is also a critical determinant. We do not have cheap energy. That is not going to offset high labour. We do not have cheap capital. We do not have cheap transportation costs. When we look at what factor costs really mean, they mean comparative wage rates. I will come back to that.

Finally, it means productivity. Prior to about 1969, Canada had low productivity—about 25 per cent lower in the manufacturing sector than in the United States. But it also had lower wage rates, and the two tended to balance off. In fact, with a substantial discount on the Canadian dollar back through most of the sixties, Canada was a relatively attractive place to put in manufacturing investment and also to use as a source of supplies of exports, especially to the United States. It was a good place to invest.

What has happened since 1969? We have had about a 10 per cent increase in the value of the Canadian dollar. That cuts down, of course, on the competitiveness of Canadian manufacturing products. It would be all right if, as in the automotive sector, the increase in the exchange rate was substantially offset by a sharp increase in relative productivity. This has not been the case, unfortunately.

Since 1969 we have not been doing any better than the United States, in the aggregate, on productivity growth, and so it remains the case today, that the average canadian worker in manufacturing—I stress the word "average", since there are all kinds of variations in individual indsutry—is about 20 per cent less productive than is his counterpart in the United States.

Finally, wage rates have moved from a substantially lower level than in the United States, to the point where, as Judy Maxwell and Barbara Goldman have shown in our policy review this year, after you take into account all the factors, such as fringe benefits, regional differences, industrial structure differences, and so on, the difference between average wage rates in Canada and the United States is now just razor thin, a per cent or so one way or the other of being equal.

I must say that as I look into the future—

The Deputy Chairman: That is in manufacturing?

Mr. Beigie: That is in manufacturing. Those are the traded goods.

Senator Desruisseaux: Would the same apply to services?

Mr. Beigie: No, not to the same degree.

Senator Rowe: You mean that the Americans would be higher?

Mr. Beigie: Yes. The difficulty is that although that gets captured in terms of the total costs of manufacturing in Canada, the trouble is that we do not sell services directly.

My own view, and it is a strong view, is that the Canadian dollar is overvalued at the present time. In terms—it is always in terms of something—of the objectives of this country, of the use of manufacturing, particularly high technology manufacturing, to reshape the Canadian economy, we are going to find that the impact of an overvalued currency comes about gradually and slowly.

We are finding, in our contacts with businessmen in the United States, that they are not running out of Canada. They are not fleeing Canada and taking out their money, but are reassessing where they are going to make expansions; and the balance in many industries has shifted markedly in the last four or five years in favour of making production expansion in the United States.

It used to be that we had high tariffs that would protect us and keep a substantial portion of Canadian needs supplied by Canadian production. Given what has happened to exchange rates, to wage costs, to productivity in various sectors, and given also what has happened to tariffs—they have been coming down—it is increasingly difficult in this kind of situation for us to achieve our national objectives in terms of manufacturing goals through the use of tariffs alone. It is not having that protective effect it used to have, say, 20 years ago.

The response of economists to this situation—they give this response all the time—is, "Well, we will just let our exchange rates fall." It is going to be a very difficult phase for this country to go through. Why? As the exchange rate falls, the costs of our imports rise. This shows up in the consumer price index. The consumer price index is the basis of wage contracts. It is now written in as a fundamental principle of the Canadian government's anti-inflation program that labour deserves to be fully compensated for increases in the consumer price index. But if we start to devalue, the price of our imports go up, our inflation rate goes up, as will our wage rates, and we are in very serious danger of going on a down escalator. So the exchange rate, as a tool for adjusting to what has happened to wage and productivity trends between the two countries, is a very blunt instrument at the present time, I am afraid, because of the institutional arrangements we

have now built up in most advanced indusrial economies, and particularly in the Canadian economy. Furthermore—

Senator Rowe: Some economists I have been reading lately have been saying, in respect of what has happened in England in the last few weeks, that it is beneficial. Would the same factors not apply here as in England?

Mr. Beigie: Yes, but there is one very critical difference between England and Canada at the present time. There is a £6 absolute limit on weekly wage gains. That is an absolute number, and it is not tied to the inflation rate. It may be that what will happen is that the British worker will say "Six pounds doesn't give us enough, given what is happening to the inflation rate," and they will break the agreement they now have, an informal sort of social compact. But the British worker became so worried about his job prospects that he was willing to settle for less than the full cost of living. That is also exactly what happened in the United States.

I have made a lot of enemies among some of your own friends by saying this, but I am convinced it is true—that the main reason for the development in the wage front has not been that Canadian workers, especially in the manufacturing industries, have been excessively greedy. If we look at what has happened to inflation and traditional growth in productivity, manufacturing employees have been doing little more than keeping pace or catching up, which is really what is embodied in the wage and price controls program anyway. It is judged to be quite legitimate behaviour to catch up and stay with rates of inflation. But if we look at what has been happening in the United States, they have been extremely docile. I do not know why, but the labour movement in the United States has been willing to settle over the past five years for an absolute decline in their real income. That is a very important development in the wage picture. I do not know how to get around it. I am not passing judgment here on anyone. The fact of the matter is, I am describing a trend that happened and has put us in a situation that is very difficult to resolve.

Senator Macnaughton: The result is a drop in the rate of inflation from 10 to nine-something.

Mr. Beigie: I don't know; I am not a very good forecaster of inflation rates. In the United States the inflation rate is down close to five per cent or five and a half per cent in most of the good forecasts for 1976, whereas in Canada the Conference Board has just suggested that it will be something like nine per cent. That is a very marked differential in terms of inflation performance between the two countries and on a historic basis not something we see on a very long-term basis. This is one of the reasons that our biennial report that I mentioned earlier is entitled "A Time of Difficult Transitions."

Senator Rowe: Is that trend in the United States, the willingness of the worker, upon which I believe everyone agrees, likely to be catching in Canada?

Mr. Beigie: In the United States they are worried that our behaviour will be catching down there. I do not think so.

The deputy Chairman: Honourable senators, I will have to ask that we withhold questioning, as it is 20 minutes after 10 o'clock and Mr. Beigie has yet to come to the third major portion of his analysis, which is the composition of trade.

Mr. Beigie: Yes, on which I can be quite brief.

The deputy Chairman: I am not asking you to be brief, but asking that questions be withheld until the official round of questioning can begin.

Mr. Beigie: In the second area, this business of the trade balance, again a research suggestion, an analysis suggestion question with which you might continue to provoke witnesses: Just how effective is the exchange rate as in adjustment device for the bilateral relationship? I tell you frankly that exchange rate devaluation is not going to do much in the critical raw materials area, except to mean that Canada has a deterioration in what is known in the jargon as its terms of trade. It will not help very much. It will have a very slow impact on anything in the auto sector. Devaluation or revaluation of the Canadian dollar does not have any serious impact, except over a long period of time in terms of investment decisions on an incremental basis. You are not going to shut down an efficient plant in Canada just because the exchange rate moves a couple of percentage points. So my own fairly strong view is that the exchange rate is not a particularly useful mechanism with which to try to correct balance of payment problems between Canada and the United States. In my opinion it is a subject that is worth investigating further.

I have said that economists are mainly concerned with the efficiency prospects for expanding the level of trade. Politicians are subject to a great deal of pressure concerning matters relating to the trade balance and its implications for employment and so on. The composition of trade is something that in my opinion is of true concern to planners. Now, when I use the word "planners", I do not use it in a pejorative sense. My own view is that the industrialized world has come to the point at which planning must be considered seriously. I think we are in a semantic hangup about the term that is inappropriate in terms of the need of the economy. However, I do feel that this is an area, the composition of trade, in which people whether they call themselves planners or not, are particularly interested. The structure of tariffs is the important issue here, rather than the average level of tariffs. You will remember back to the imposition of the 1971 import surtax by President Nixon in August 1971. You may recall that there was a notion that Canada was not going to be affected very much by this, because 75 per cent of all trade that flowed from Canada to the United States was duty-free and the surcharge did not apply to duty-free trade. The fact that so much of Canada's trade is going in duty-free while a substantial portion has to face a stiffer penalty in terms of tariff, is a significant factor in the determination of Canada's trade composition. The fundamental determinant of Canada's industrial structure at the present time is a combination of both Canadian tariffs and United States tariffs.

In the area of the upgrading of Canada's resources, this picture is very clear. All countries in the industrialized world, including Canada, have a practice that is known in the jargon as escalating tariffs. Countries are very happy to get other countries' raw materials, but when those raw materials are combined with labour in the exporting coun-

try the tariff rate becomes progressively higher. This means that when Canada looks around for markets, it finds that it has an easier time getting into the United States with unprocessed materials than it has with processed manufactures using Canadian resources.

I believe that tariff escalation is a serious issue; so does UNCTAD and the Third World. They believe that the industrialized countries owe it to them, if they want their resources, to remove the discriminatory aspects of the tariff escalation. In other words, to reduce the tariff penalty for exporting processed materials. It is also an area, which I do not believe the United States sufficiently recognizes and the Canadian government has been trying to point this out, in which non-tariff barriers also have a very significant impact on the ability of Canada to sell processed goods and the ability of other resource-exporting countries to sell processed goods. The difficulty is that Canada does not have at the present time a real strategy in GATT, although I am sure that Mr. Gray would tell you quite differently.

Senator Connolly: Did you say in GATT?

Mr. Beigie: Yes, in the GATT negotiations. I do not see a consistent, logical strategy in the Canadian approach; it is pick and choose. The United States is not going to do this; Europe is not going to do this. Japan and even the developing countries have strategies. The real question in my mind is whether Canada is going to come along and get swept along with this process, or contribute to the formulation of a global strategy that will be in the Canadian interest. It is going to be increasingly difficult, in the international climate that we face, for Canada to try to pick and choose where it will make gains on the trade front. I know that many of my colleagues have knocked the term "industrial strategy". They think it is silly, some grandiose blueprint. Well, the fact of the matter is that if you do not have a strategy, in my opinion you are going to get into a situation in which you do not really know what you are doing, or why. I happen to believe that the effort to determine Canada's industrial goals and industrial strategy and to achieve those goals deserves a lot more attention than it has been given.

What I am concerned about in the Canadian-American relationship, and what the Americans are especially concerned about, is that while there is a great deal of support for the notion that barriers to market forces in the form of tariffs that escalate with stages of processing and non-tariff barriers should be reduced, the real question is how much farther is Canada going to go? Is Canada going to create new interventions if market forces would not, even in the absence of these tariff practices, enable us to complete? Why might they not? It may be that our taxation system, domestic policies and our transportation systems are not conductive to the production of ungraded raw materials which are competitive in international markets. It may be that the natural barriers of distance will prevent Canada from upgrading to the degree that it wants. It may also well be that the labour costs which I mentioned earlier and the efficiency in production in Canada will mean that we are unable in terms of a competitive, open world economy to meet foreign competition in terms of our export objectives.

What do we do if that is the case? That is, quite frankly, the $64 question: Is Canada going to intervene through export controls, through limits on exports that create a further proliferation of this tendency toward government intervention, for the purpose of negating market forces? You see, in the future of the trading relationship—and this holds in agriculture, resources and manufacturing—there is a fundamental difference in the apparent philosophy between the United States and the Canadian government at the present time. The United States feels that the appropriate phase is to deregulate, to reduce government interventions—in other words, to move to market forces. I met with two members of the Administration recently and they were both wearing Adam Smith ties. You know, this is their direction; I am not judging that this is the right direction, but it is a significantly different direction than is the case in Canada, where our approach is to increase regulation, to increase the use of marketing boards, to increase government intervention, to increase controls on exports and this kind of thing.

Again this is a notion that market forces cannot be trusted. It may be correct, but it is a fundamentally different line than the United States is taking and I must say that when you strip away all the irritants, the special issues on which people focus in the newspapers and the media, the fundamental issue in the future of the bilateral trading relationship is how we can resolve the trend in the United States toward market forces and movement toward market intervention on the part of the government in Canada. The real issue, it seems to me, in the future relationship of the two countries is how are we going to get guidelines that are mutually acceptable to both countries, that are perceived by the public in both countries as being fair, just and reasonable in the national interests and the broader international interest that the two countries have for the future.

That concludes my opening remarks, Mr. Chairman. I will now be glad to respond to any questions that members of the committee might have.

The Deputy Chairman: I am sure that honourable senators, even at this early point, would want me to thank you for an extremely interesting, informative and, as Senator Macnaughton said, provocative presentation.

One question I am sure honourable senators would like me to ask at this point, if I interpreted some of the attitudes of honourable senators in this and other committees correctly, is where one buys an Adam Smith tie.

Mr. Beigie: Evidently, it is on sale in Washington. I asked that question myself.

The Deputy Chairman: I think some honourable senators may be wondering what an Adam Smith tie is, and its significance.

Mr. Beigie: It is a tie that has the bust of Adam Smith, in very small detail. It simply signifies that the wearer is a believer in the views of Adam Smith.

Senator Macnaughton: Perhaps we could send one to Mr. Gillespie.

The Deputy Chairman: One other comment. Perhaps because our witness is much younger than some of us, he referred to the $64 question. My recollection is that it was the $64,000 question.

I will now turn the questioning over to Senator Lafond.

Senator Lafond: Thank you, Mr. Chairman. I heartily endorse your expression of thanks to Mr. Beigie. His reputation preceded him, and justifiably so. I suggest that this committee would be wise to keep a long string on him so that it can call him back sooner rather than later.

Hon. Senators: Hear, hear!

Senator Lafond: In view of the eagerness of members of the committee to ask questions, I will try to be as brief as possible. I think I must address myself particularly to those $64,000 questions in an effort to get some further enlightenment.

You mentioned that over the last decade, or half decade, there has been a decline in productivity in the industrialized world. Why is that? Obviously, having in mind that the population of the world is, and has been, constantly on the increase, there is no lack of basic demand. If there is an element of lack of demand, is it the result of disturbances in the field of means of exchange? And, again, what element in this decline of productivity is lack or deficiency of demand?

Mr. Beigie: First of all—and I know honourable Senators are aware of this, but I should like to mention it for clarity of the record—"decline" has two meanings. It has not been an absolute fall. It simply means that the rate of improvement in our productivity is slowing down.

To make this very vivid, I recall that the guidelines the late President Kennedy was persuaded to adopt for the United States in the early 1960s—and those guidelines were really the grandfather of our controls program in Canada—included a productivity guideline of, first 3.2 and then 3.8 percentage points a year. Our program contains a guideline of 2 percentage points, which I think is a little bit too high. That is an indication of what has happened in North America over the past decade or so. We have experienced a significant slowing down in what we are capable of achieving on the productivity front.

Senator Lafond: Is that, to some extent, because the rate of increased productivity for a period was too high?

Mr. Beigie: That is much more the case in respect of Europe and Japan. They had a twofold advantage. After the recovery from the Second World War, Europe and Japan had the opportunity to put in place a substantial amount of highly productive new capital. While they were catching up with the rest of the world following the destruction of the war, they did have a temporary sharp spurt in productivity performance. That was the first factor.

The second factor, especially in the case of the European Economic Community, was that while that process was going on, they achieved the greater integration that was possible from the Community and, by producing for larger markets, they were able to achieve efficiency gains that showed up in a very high rate of productivity performance. These effect have now been largely used up, and the Europeans and the Japanese are now moving closer to the kind of situation faced in the United States and Canada.

In our two countries, as the Economic Council of Canada has pointed out, the principal thing that is happening is that we are moving increasingly towards a service-oriented economy, and our ability to measure productivity gains in the service economy is not good. It is a state of the art that is very weak. Governments, too, are increasing their share of the economy, although not as dramatically as some numbers would suggest. Nonetheless, we are moving towards a service and government-oriented economy in order to respond to public demands, although this is not exclusively the case. There is a supply of government services that is leading demands rather than responding to them.

In a service and government-oriented economy, it is more difficult to realize productivity advances. Also, as the Economic Council has pointed out, we had the advantage of moving people out of the agriculture sector, where productivity was low, into the manufacturing sector, where productivity was high. That process has gone about as far as it can go. In fact, my best guess is that we will have to start moving people back to the farms, or at least slow down substantially the net emigration from the agriculture sector.

A dimension that you very rarely hear about, but which is very significant, is that we are running out of cheap sources of many of our basic resources. The fact that we have to fill up the pipeline, if we do fill it up, between Sarnia and Montreal, with tar sands production, for example, means that we are going to have to move to a much more expensive and, therefore, less efficient method of meeting our energy needs.

We have to use something of the order of 16 to 20 times as much capital to extract a barrel of oil from the tar sands as it costs to get a barrel of oil out of the Middle East, for example. As a result of these cost developments, it is becoming extremely difficult for us to achieve the kind of productivity advances we had in the earlier period.

The final thing—and this is particularly important in North America, and especially in Canada—is that we had a sharp burst in the numbers of young people coming into the labour force, as honourable senators are well aware. These young workers were not well trained or well experienced in the specific jobs into which they were going, which tends to slow down the rate of productivity advances. However, as we look into the 1980s, these people will have gained that experience and maturity, with the result, I hope, that the 1980s will result in a better producvitivy performance than what is the case today. I am not a productivity pessimist. I do not think we are going to have to face an environment in which living standards stagnate or decline. I think we will have opportunities for improvements in the area of productivity. I believe that the 1960s was an unusual period for North America. It was a period that could not be continued forever. Therefore, the kind of 3 per cent, 4 per cent, year-in, year-out growth in living standards that we could expect then, are unlikely to be seen again on this continent, except for short periods.

Senator Connolly: I wonder if I might ask a supplementary, Mr. Chairman.

The Deputy Chairman: Yes.

Senator Connolly: Mr. Beigie, you have dealt at some length with the matter of productivity. I think that having you here provides an opportunity to ask you to expand on the meaning of that word. I may be wrong, but I think that when we talk about productivity and improvement in

productivity a great many people seem to think that it is a matter of grinding the worker's nose, that it is going to require the worker to work that much harder, to work more intensively, to make his job a burden.

Mr. Beigie: Sweat shop.

Senator Connolly: The sweat shop concept. Would you care to say something about that? I do not want to hold up the proceedings, because I think that what Senator Lafond is dealing with is much more important. However, I think that is a fundamental concept about productivity that is perhaps wrong.

Mr. Beigie: I could not agree with you more. The most important concept is efficiency, which is a far better term to be using than "productivity." We can have an improvement in our efficiency through such means as creating opportunities for greater economies of scale and so on. It does not have to mean this image of grinding the worker harder. It can mean nothing more than having the capital available to give the worker more productive machinery to work with. I must say, one of the things we have to get straightened out in this country, and a lot of other countries, is this whole question of whether investment incentives are just a big rip-off. They are not; they are not a big rip-off if they lead to the kinds of investment expansion that give the opportunity to the workers to increase their efficiency and productivity, and therefore their living standards.

Senator Connolly: That implies, of course, technological improvement too.

Mr. Beigie: That is right.

Senator Connolly: Is there anything more you might like to say? I am sorry to persist, Senator Lafond, but these are fundamentals rather than the question we were discussing.

Mr. Beigie: They are, and I hope what we can do is expand upon this on some of the other questions. In terms of an overview, there is not a lot more I feel I can say. We will keep picking up the points as we go along.

Senator Connolly: Thank you.

The Deputy Chairman: Is there an accepted definition of "productivity" amongst economists?

Mr. Beigie: I do not think there are any accepted definitions of anything. The point you make is an important one. The common one that everybody thinks about is labour productivity. I do not know why, because there are all kinds of factors of production that go into it. The term most economists would accept is a concept called total factor productivity. I do not want to get jargonizing with you, but what it means is that you look not only at how much labour there is; you compare output increases on the top with increases in labour and capital at the bottom.

The reason this is fundamentally important is that, if you look at productivity in Canada on a labour basis, it has on average been two percentage points per year over the past 20 years. That is the guideline in the AIB's program, two per cent. However, if you take into account that there has also been a lot more capital employed in this period, the total factor productivity is only about 1.4 or 1.5, I believe, which is lower. Quite frankly, basing a program on productivity measure based solely on labour can be contributory to inflation problems as opposed to reducing them.

Senator Carter: What about management productivity?

Mr. Beigie: That gets captured in a kind of residual; in the traditional definitions that economists use of productivity it gets captured in what is left over.

The Deputy Chairman: Is that relation of 1.4 to 1.6 fairly standard, the mix between the capital and labour factor in productivity?

Mr. Beigie: No, it is not that kind of relationship.

Senator Lafond: To what extent has the absence of harmony in labour ranks in Canada in the last couple of years, when we have established records of time lost through strikes and so on, had an impact on your rate of productivity? Has it been very serious?

Mr. Beigie: I am sorry, but I cannot measure that. All I can do is compare the situation in Canada and in the United States. We have had a weaker productivity performance than they have over the recent cycles. I just do not know how much strike activity has affected this productivity measure. I think it is fairly easily calculated, but I have never done it.

Senator Rowe: But there is a difference in efficiency on an hourly basis, is there not? What I mean by that is, suppose no time is lost at all through strikes.

Mr. Beigie: That is right; that is exactly right; the level as opposed to what has been happening on the trend.

Senator Rowe: Which is pretty important, is it not?

Mr. Beigie: Yes.

Senator Lafond: You said that the Canadian worker was 20 per cent less productive than the United States worker.

Mr. Beigie: In the order of that, in the manufacturing sector.

Senator Lafond: Of course, there are differences in scale between the two countries. Would you care to venture what a desirable differential should be between the productivity of the Canadian worker and the American worker, or should there not be any at all?

Mr. Beigie: I would like to see none at all. In fact, I would like to see Canadian worker wage rates determined, not in some relationship to the United States, but in relationship to our own full potentiality. I do not want to make any enemies down in the States, but I have lived in both countries and I feel that with respect to the attitude towards absenteeism, and the attitude towards work in general, we can basically be quite proud of the Canadian worker in this country. I do not believe the potentiality should be judged in terms of whether we can match the United States.

All I can say is that the answer to your question depends on what is the basic framework within which the Canadian worker works. When the Canadian worker in autos worked in a highly protected environment, he was about

25 to 30 per cent less efficient than the United States worker. When he was given the opportunity to make cars that could go across the border on a duty-free basis he was able to raise his productivity to essentially the same as it was in the United States, and in some of the more modern factories that were built in Canada the workers were more efficient than in the older factories in Detroit, for example. It is really a function of the environment that you give the Canadian worker, and part of that is tariffs.

I am going to offer a gratuitous comment. I think there is a tendency to focus too much on strikes. It is my own firm belief—although I cannot back this up with a lot of easy numbers—on the basis of examining the situation, that efficiency is particularly a function of the degree to which you allow markets to sort out all of the difficult questions. No government in the world—the government of the Soviet union, the government of the United States or the government of Canada—can possibly substitute for market forces, to the degree that they seem to want to be doing at the present time, without having a negative impact on efficiency. It prolongs decisions; it reduces flexibility; it reduces mobility, and it leads to situations where it is increasingly difficult to get on with the job of producing output. I must say that I feel extremely strongly that this is the main cost to any economy when it gives to the government management tasks it is incapable of fully performing.

Senator Lafond: So that in order to achieve the corrections that we feel are required in this field it is your view that no government can take any useful direct action, but its role should be limited to creating the sort of climate in which the problems will resolve themselves?

Mr. Beigie: I do not want to be so extreme as to say that any government is bad government, because I basically do not believe that at all. What I do believe is that there has been a tendency in recent years for governments, either at their own initiative or in response to what they regard as public pressures, to take on more tasks than they can efficiently handle. It seems to me that the really productive road is to find out what national objectives are and then figure out a way where the minimum possible number of governmental resources can be applied to getting those tasks and objectives met. I do not think that is a basic description of what we are trying to do in this country at the present time.

Senator Lafond: Thank you. I will pass now.

Senator Rowe: I have a couple of questions. I am worried, as I am sure most Canadians are, about this decline in the growth of efficiency. I suppose that is the correct way to express it in Canada, is it not?

Mr. Beigie: And everywhere else; we are not alone in this.

Senator Rowe: I thought the United States had improved in the last few years.

Mr. Beigie: All these things are relative. That is one of the troubles with statisticians; that is how they prove everything.

Senator Rowe: Has anyone tried to analyze what has happened in Canada to slow up the growth in efficiency? Has there been any formal study made?

Mr. Beigie: Yes. The Economic Council has done some very important and interesting work in this area. I think the main work has been done more in the context of how Canada, in the Canadian context, declined. Comparative studies have not done much. I have been trying to get our British North American Committee to address itself to this question: Why, amoung the some 20 members of the OECD do Canada, the United States and Britain lie at the bottom of the totem pole, in terms of their productivity record? I do not know the answer to that. I think we should start examining it in a lot more detail.

Senator Rowe: It certainly worries me, and I am sure it worries many Canadians, that we should be in this alleged unfavourable position.

Mr. Beigie: May I say that to the extent that we are, as a result of our abundance—and let us not kid ourselves, we are still a very affluent society and economy—we have made certain decisions. These are quite natural decisions. We want to spend more time having other people do our services for us. We want to have more leisure time, so on and so forth. To the extent that happens, I do not become panicked about a decline in the rate of growth of productivity, as long as it does not start going absolutely down.

However, instead of this notion that the ultimate goal of life—I am not going to give you a Sermon on the Mount here—is to try to maximize productivity, as opposed to other objectives that people have in their total life, it seems to me that what we must face is the fact that we have a lot of objectives in this country; we have to improve the lot of the poor, the unemployed, and so on, and those cost resources.

Unless you increase the total pie, in the economic jargon, then in order to transfer income from one group to another, you are going to have to take away absolutely from someone.

The sixties were a grand period. We were growing so fast that we could achieve all these transfer payments for new social programs and so on out of the growth of the pie. It is now starting to bite out of our pocketbooks, and we are getting less and less in terms of our real take-home pay. This is where it starts to hurt.

Senator Rowe: The fear I expressed, and others have expressed, is based mostly on the fear that Canada's competitive position, vis-à-vis other producing countries, will seriously decline as a result of the decline in efficiency in Canada.

Mr. Beigie: If I may give you the conventional economist's answer to that, it is: If we have a slower growth of productivity than other countries, then the adjustment mechanism is to have a decline in our exchange rate over time.

The reason I focussed on this in my opening remarks is I do not think that it is that easy to achieve. It is very difficult to get a gradual decline. For one thing, a lot of Europeans cannot differentiate between a Canadian and U.S. dollar.

There is a tendency to think there is something golden about parity. They also tend to take a bet that it is going to stay about par between the two countries. Even though our competitiveness may require us to have a discount on the Canadian dollar, it is very difficult to bring that about

gradually, especially under the current international framework where this is supposed to be a response to market forces but is in fact "managed."

Senator Rowe: I do not know if there is an answer to this particular question, but there is a tendency, as I understand, when any serious or dramatic economic change occurs in the United States, that eventually that takes place in Canada as well. Eventually it reaches us. If stocks go up in the United States, then after a period of time they go up here; and if they go down, they go down here. The same thing applies, I suppose, with inflation and with other dramatic and serious economic changes. After the phenomenon has developed in the United States is there a rule of thumb, among economists, as to how long it takes to be reflected in Canada?

Mr. Beigie: If I can be a little waggish, it used to be that it was the next day; it was very, very fast. I believe recent experiences demonstrate several things, one is that it depends on the kind of relationship. Inflation tends to show up faster than unemployment, say. It also depends on government policy. For example, Canadian government policy introduced indexation of the personal income tax. The United States did not do that. That was a significant reason for why we had a slower decline in our output—a small recession than they had in the United States.

We have discretion over such key matters as energy prices. We have gone up more slowly than the United States, and much more slowly than Europe and Japan. Therefore, that tends to prolong the adjustments. You know, the old saying was that the United States sneezes and Canada catches pneumonia. This is no longer as true as it used to be in the past.

The introduction of government programs has helped. Government is not always wrong. We have had policies adopted that tend to even out business cucles.

My basic view—and this is not a rule of thumb that would generally be accepted—is that there are severe and real constraints on how far we can diverge from basically parallel paths, over a period as long as five years. If we get a temporary improvement on inflation and growth, usually the process of achieving that is going to show up later. Therefore, it can be anywhere from a month to four or five years. I am not saying it is lock-stepped or deterministic or anything else. It is just that our people are very similar and our attitudes towrads economic affairs are very similar. The basic fundamentals are so similar in this stage of our economic evolution and we are going to have pretty similar patterns. It seems to me, therefore, that we have to be very careful that we do not let ourselves get too far out of line. If the United States does something really silly, there is no reason whatsoever why we should sit back and say we are going to follow and have the same consequences. However, on basic fundamentals we do have similar problems.

The Deputy Chairman: To what extent would you say that the fact that both countries have the same name for their medium of exchange—that is, the dollar—might be a factor of distortion in the perception of the rate of exchange?

Mr. Beigie: This is not an economic type of question, it is a psychological type of question and I am sure that is the spirit you meant it in. The psychology of it is important, especially in third countries. I have long been an advocate of changing our currency to something like the "louis."

Senator Carter: The beaver.

Mr. Beigie: That is going to be our car, is it not?

The Deputy Chairman: I was thinking that it could be the PET buck or something.

Mr. Beigie: It is not so much what you call it, it is the relationship. You would like to have one dollar equal .32987 Canadian currency unit. Then everyone gets all messed up and they do not know what it is.

Let me just give you an example of where this exchange rate relationship does make a difference, because it is important right now. We are financing substantial deficits by borrowing long-term down in the United States. We have to repay both the principal and the interest in U.S. dollars.

If we devalue the Canadian currency, that means we have to spend more Canadian dollars in order to meet those fixed U.S. dollar liabilities. Exchange devaluation, therefore, does not help you very much there and, in fact, it hurts you. That is the kind of problem which occurs.

If we are the possessor of resources that the United States has to have, then exports of those resources are going to tend to hold up the value of the Canadian dollar because they are not very labour intensive.

I will tell you, frankly, what I look at in the future, when I do my crystal-ball gazing, and that is even though we want to be less dependent on resource industries, what has been happening in the wage field suggests to me that in order to pay for our needs in external markets, we are going to have to be, probably at least as dependent, on resources for as far into the future as I can see.

Senator Carter: You stated that Canada, the U.S. and the U.K. were at the bottom of the OECD scale.

Mr. Beigie: In productivity achievements.

Senator Carter: On the productivity scale or efficiency scale. Is the same scale applied to every country?

Mr. Beigie: In terms of growth, yes.

Senator Carter: In terms of growth?

Mr. Beigie: Certainly, the United States and Canada rank near the top in terms of absolute performance, although less so now. But in terms of absolute productivity there is a question of where we stand today and how fast we are growing. It is in terms of growth that I am talking about the scale.

Senator Carter: The rate of growth?

Mr. Beigie: The rate of improvement in our productivity, which is quite different.

Senator Carter: Oh, that is what you are talking about, the rate of improvement, not the actual productivity.

Mr. Beigie: That is right.

Senator Carter: Coming to productivity, I believe you said there was an average differential of about 18 per cent between the Canadian and the U.S. worker.

Mr. Beigie: It is something on the order of 20-plus per cent. I have not done any independant estimates.

Senator Carter: What are the high and low sectors? I know the steel industry in Canada is pretty well on a par, and I believe you said the automotive pact was on a par. Are there any other areas in which we are on a par? Where do we fall off? What accounts for that 20 per cent drop?

Mr. Beigie: Just, basically, most of the manufacturing sectors, aside from those exceptions such as the auto industry. But it would be most of the smaller industries. In the more dynamic industries we seem to do better.

A mistake which Canadian economists particularly perpetuate on the public is that in every single industry it is necessary to have massive scale in order to produce efficiently. That is not always the case at all. The areas in which we do the worst are those in which product differentiation figures quite heavily. For example, as a result of our exposure to the United States media their advertising tends to form our expectations about the variety of models we will buy, so that instead of having just one or two refrigerators, which is a classic example, we want the full range of refrigerators, where the differential is often nothing more than the physical appearance of the appliance as opposed to the job that it can perform. But in the United States the market is at least ten times as large and can support on an efficient scale a much broader range of models than is the case in Canada.

I may be getting off the subject a little, but this is something I feel strongly about. There is a tendency to believe that what we do is use the tariff to make superprofits in manufacturing. That is not true. We do not. In fact, we waste the tariff advantage by being inefficient, especially by producing an excessively broad range of most of those differentiated products. On the other hand, when we produce cement or steel—and steel is a great example—or pulp, then we are pretty good and do well on an international comparison. When it is a matter of fine papers in the pulp and paper field, however, then there is an excessive amount of diversification involving shutting down the machines much more frequently to make change-overs than is the case in the United States.

In the auto pact, to come back to that example, there were hundreds of different models made in the same plant prior to the auto pact. It was narrowed down considerably after. I hope your staff has been able to obtain a copy of the latest study of the automotive agreement. It indicates just what it was like in the plants before and after the pact. There was a sharp reduction in the range, which had the effect of increasing the efficiency.

A classic example is paper tissues, where it is necessary to shut down the dyeing process in order to put new colours on, because we all want the tissues with the various flowers and different arrangements which the Americans can blow their noses into. The fact of the matter is that in Canada, in order to achieve that same diversification, it is not simply a case of running one paper machine continuously in order to make one colour, be it green, yellow or red; it is necessary to shut the machines down after a certain length of run in order to change the dye, and so on, which is far less efficient.

The Canadian worker and the Canadian public are too often concerned that in some senses the Canadian worker is inherently less efficient than the American worker. My own view is that that is nonsense. The fact is that the Canadian worker is given a market structure in which efficiency is more difficult to achieve owing to the size differential and because of the fact that we try to proliferate as much as they do in the United States.

Senator Connolly: Surely an important aspect of the problem is the question of who takes the decision to proliferate.

Mr. Beigie: I would contend that it is largely the marketplace.

Senator Connolly: And the demand created, or, if not created, at least strengthened by the American advertising in this country which talks about the wide range of products.

Mr. Beigie: I think that is right. That is basically right. From the investigations made, and it is not an area which is well understood, it would seem that pricing in Canada tends to be based on the U.S. price plus the tariff. When the tariff is high we have a high price differential. How do we use that price differential? One way is to make a big bundle of profits. That is not the way it works out in practice. The competitive process has led companies to compete by offering a wide range of products. They can do so at higher cost without attracting import competition because of the high tariffs that exist in these areas.

Senator Connolly: Who could correct the direction of that movement? Is it the government? Is it the market? Is it necessary to reform the thinking of the people, or is it necessary to shut off American television and advertising? These are considerations this committee has to face.

Mr. Beigie: There are two basic approaches with which this committee will be confronted at some time and with which the Canadian government will be confronted at all its various levels. Of the two basic approaches, the first option is to remove the market conditions creating incentives for proliferation by cutting down the tariffs; and, although I hardly relish putting it in these extremes though it is basic to what we are dealing with, the second option is for the government to intervene. The government could take the position that they could tell Canadian producers to limit production: "If you want to produce a car, it must be a black, two-door car. That is all you can produce up here." That would be one form of intervention. Another form would be for the government to force industries to rationalize: "Instead of having ten refrigerator makers up here, there will be only two. We will force you to merge in order to create those two and we will shut off American influence." Well, of course, there is just no way the government could do that. You cannot create in the Canadian public a willingness to have a choice from a range of consumer products that is markedly less than in the United States. There are just too many people crossing the border all the time.

For example, my wife and I were recently in the United States. Her comment was that even now when we go to

purchase something we do not have the same range of choice in Canada as we have in most stores in the United States. That influence will remain there. You cannot shut the border off.

The Deputy Chairman: Some countries have tried that, however.

Mr. Beigie: Yes. Mexico has gone that route in respect of autos. They have said, "If you are going to produce autos in this country, you are going to produce a limited range of them. You can produce only a certain numbers of models in Mexico. If you want to produce at all, that is the condition." Well, it is a possibility, but I would not recommend it.

I do not see the question of trade relations with the United States in the abstract, pure, free-trade type of concept that the academic community tends to promote. I am not disparaging them. I just say I do not tend to see it that way. I see the question of allowing international market forces to have a bigger role in determining the evolution of the Canadian economy as the only real option to an increasing proliferation of interventionist policies by government in response to the demands of the Canadian people. I would say that it is totally inconsistent for people to be coming to this city and pressuring groups like you, and other members of the Ottawa community, at the same time to be staying out of business affairs and retaining protection in the form of high tariffs. It is an incompatible position to be arguing the two things at the same time. These are fundamental things, as you well know, Senator Grosart, that we have to sort out.

The Deputy Chairman: I was going to ask you to what extent other countries have had success in limiting the range of products by restricting consumer choice rather than production.

Mr. Beigie: I do not pretend to be an expert on this. I do not think that among the industrial economies this has been tried to a very great degree. The Japanese approach was basically that if consumers are going to like it, they would produce it at home and set up tariff and non-tariff conditions that will protect the production. I would just bet—it is nothing more than a strong hunch, really—that attempts to severely restrict Canadian consumers would not meet with much success. At the same time I do think it is the case that there has been an excessive proliferation to meet everybody's demands.

Somebody at one of the universities once calculated that the possible range of options, or packages, for automobiles in North America, exceeds the number of stars in the universe, and there is probably something in this, when you consider the fact that there could be a different kind of side view mirror, a different type of trim, and so on. I do not know what all that costs. Maybe it is done at very little cost to society; however, I would hate to be put in the position of passing judgment on what is or is not an appropriate consumer choice, though I do think that in the Canadian context full consumer sovereignty has cost us very substantially in terms of our comparative productivity performance.

The Deputy Chairman: But has it not been done with great effectiveness, if not great success; from other points of view, in Canada? For example, consider the restriction of consumer choice in alcoholic products at the provincial level.

Mr. Beigie: It is a good point. It is true.

Senator McElman: But you are dealing here with a monopoly.

The Deputy Chairman: Of course; but I was speaking then of government intervention to achieve a limitation of consumer choice. Here, I think, is a classic example. As a matter fo fact, it is one of the non-tariff barriers that the Americans are complaining about.

Senator McElman: Nonetheless, you are dealing with an absolute monopoly there, because the retailing of hard liquor within Canada is totally controlled by the provinces, whereas in the United States you can buy it on any corner. So those situations differ. Within the nation we try to reduce monopolies, but here is a monopoly that is totally within the control of government, and it is hard to stretch it into other areas, because of the ground rules that exist to control that situation.

The deputy Chairman: Yes, and in this case you have two governments, because the federal government exercises a degree of consumer choice control by excise duties and excise taxes, after which the provinces do it by retail markup. What I am saying, however, is that if this has been done successfully here, can this be done elsewhere? Could we do the same thing, for example—and I am sure that governments could do it—with regard to automobiles? Would this be desirable?

Senator Connolly: Surely, one of the most powerful factors contributing to the proliferation of products is the whole advertising industry, which is designed to create new markets, to diversify choices and to diversify tastes, and this is working in this country very effectively, as it has worked, and will always continue to work, in the American market, too.

Senator Carter: Mr. Chairman, I have two or three more questions.

Senator McElman: Senator Carter, are you still on the question of proliferation? If not, I would like to put a supplementary.

The Deputy Chairman: Go ahead, Senator McElman.

Senator McElman: While we are on this subject I would like to say that I sensed, from what you were saying about proliferation, that one could draw an immediate conclusion that our producers were stupid to proliferate when they could have taken a better margin of profit.

You can carry that further. In Canada, perhaps quite uniquely in the light of its situation, geographically and in other senses, vis-à-vis the United States, we have many industries which are established and which operate on the basis that they have a domestic market which of itself is not large in relation to the whole market, and particularly the American market.

You used the Kleenex example. In that case, of course, we are forced to proliferate within the Canadian structure because our domestic market is not big enough to keep the thing rolling, and we have to follow the trends in the

United States. So the options, do you not agree, in that case, that are open to the Canadian manufacturer against proliferation are limited? But when you come to an industry, the great proportion of the market of which is strictly domestic, and it has an overflow of exports to the United States which is smaller in proportion, we do have options, and if we are going to move towards an area of attempting to control or to encourage against proliferation, in our special situation with the States, would we not have to confine ourselves to those areas of industry which largely serve the Canadian or domestic markets? That is a long question. I am sorry. Have we not a double-barrelled question here?

Mr. Beigie: Oh yes. There is no question about it. That is why I try to differentiate between diversified goods and standardized goods, because I think it is the standardized goods that are more in line with your second argument there; but to take the Kleenex example—and I am using this as a kind of model—I want first of all to make the very strong point that the principal reason why you do not stop proliferation and just take the big bucks is that high rates of return attract new competition.

I do not want to use this as an opportunity to be critical of statements by the present government on market forces, but I do not get the impression that they understand the extent to which potential competition exists in so many fields. If there were a big mark-up on tissues, and very high rates of profit, I would bet that very soon companies that are not even nearly related to the tissue industry would soon get in there so as to take advantage of the high profits. This is the way our system works. I wish we had a better understanding on the part of the public at all levels of how it operates. To take your example, even though we have a small market, what we might be able to do is to have an agreement—there is often a subsidiary relationship, and frequently subsidiary relationships make agreements easier to get—in terms of which you could say, "All right. Canada, we are going to have an international product specialization agreement, and you are going to be the supplier on a world wide basis of all red tissues." You are going to have a huge export surplus of red tissues, but you are going to import a lot of those other colours and patterns that the Canadian public want to consume. However, you are not going to produce them all. You are going to get them from external markets.

The reason you cannot do that now is due, first, to the fact that tariffs in the United States, particularly in terms of our natural markets, prevent us from shipping the red tissue there at the same cost as we supply to our domestic market; but also, more significantly, if the other companies wanted to ship those other colours into Canada, they would face the high Canadian Tariffs. I do not want to say that the tariffs are everything, but they are an awfully important factor in the determination, not only of our trade pattern, but of our entire industrial structure.

The Deputy Chairman: You won't mind my saying that as an ex-advertising man I found it very interesting that in a discussion on product diversification you kept calling it the "Kleenex model".

Senator Carter: Just following along that line for a minute or two, am I correct that you are inclined to let the market forces be the deciding factor?

Mr. Beigie: Yes. that is in the absence of very convincing proof that the market either is not working or could not be made to work significantly better.

Senator Carter: Well, going back a few years and just taking the automotive industry in the years before we had the energy crisis, in 1955 the automotive industry could have put on the market the car that we eventually got in 1965. They had the capacity and they had all the gadgets, but what they did was to ration it out, and every year there was a new little gimmick added to sell the car to the consumer, but the consumer did not get the maximum value that the industry was capable of giving to him. How do you handle a situation like that?

Mr. Beigie: You are talking now about planned obsolescence, in a way?

Senator Carter: In a way, but every model was a little different from the model put out the year before and was purported to be a little better in some way in that it had some little gadget that the previous one did not have. But the fact remains that the gadget that we got in 1965 could have been put there by the automotive industry in 1955—ten years earlier.

Mr. Beigie: Well, what we say is that the automotive industry is not one that Adam Smith would have used as a classic example of competition. I had better use that as a caveat, because I do not know quite how to answer that question really. It is not at all clear that some of these gimmicks do not just spring up in somebody's mind on a random basis and I would not think that many of the gimmicks, so-called, that are available today really were available back in 1955. I thought in fact you were going to go along a different line, that we should have been building smaller cars back in 1955.

Senator Carter: Well, we had plenty of energy back then—or, at least, we thought we had.

Mr. Beigie: Yes, we thought we had. But it is not the problem of the market, in that area, I would say. We just did not have good forecasting in the fact of a pretty difficult forecasting environment.

Senator Carter: You spoke about Adam Smith, and you said that Canada and the United States are going more or less in opposite directions philosophically and from an economic-philosophical standpoint. Canada is going more or less along the line of government intervention, whereas the United States is lessening intervention. Is Adam Smith's policy really capable of being adapted to that kind of situation or to the kind of world conditions we have today?

The Deputy Chairman: Are you looking for a tie, senator?

Senator Carter: Well, no, I am just trying to ascertain the basis on which the United States is going in this direction.

Mr. Beigie: The philosophy?

Senator Carter: Yes.

Mr. Beigie: Again, I go back to the fact that I was not passing judgment on either country; I was observing the

fact that there is a difference which I feel is pretty strong. My own personal view, as opposed to just the observation that this has happened, is that it has become increasingly difficult for government to meet the objectives that they think they have to respond to stay elected—that is, without intervening to a greater and greater degree. The question here is really as to how you educate the public to the possible consequences of intervention or, in fact, to what these consequences are going to be. I do not think that in the long run things are determined by philosophy in our type of society; they are determined by how much the public is willing to pay for certain choices. My own view is that Adam Smith's approach or the market-oriented approach to things generally has a lot more application than most people seem to realize today. I think there are critical areas where government simply has to intervene because market signals simply do not exist or else they are kind of "screwy". The fact of the matter is that the more areas in which you intervene the less able you are to do well in those areas where you absolutely have to. I believe that Adam Smith himself believed that there were legitimate reasons for government intervention, but we have to go back and reassess where those are. And in Canada, of course, it is not just a question of the federal government because you also have the provincial governments and they have a substantial impact on trade relationships, as you can quite clearly see in the reaction to the potash takeover in Saskatchewan. Again, without passing judgment on that, it does colour the perception of the relationships between the two countries.

Senator Carter: You also said that the United States, the United Kingdom and Japan all go to GATT with a preconceived strategy which they try to adhere to as much as possible. Canada does not do that. Can you give us an idea of what you think Canada's strategy should be?

Mr. Beigie: Again, just to rephrase a little, I think the European Community, Japan and the United States go to GATT with a broader perspective in terms of what they are putting forward. They have a certain responsibility, if you will, to think in terms of things that make sense when applied on a broad scale. They are big boys in this game. To some extent I think it is only fair to recognize that Canada is not going to carry the same weight in terms of how the GATT negotiations evolve as any of those three major groups of countries will. My own view is that Canada cannot determine its own approach to GATT, and how it stacks up the various prospects until it determines what it wants of its own country. That is my problem with the Canadian approach: we really do not know where we want this country to go. You get, at the same time, measures that seem to say that what we are going to do is to try to pick technologically intensive winners while at the same time we say, "Well, because of the employment consequences we cannot let anybody really go under so, therefore, we have to protect virtually everything that is going on today." I do not know of any other country as small, in terms of its domestic market, as Canada that has such pretentions about being able to duplicate the industrial structure of the much larger economies. We produce virtually everything in this country, and we do not seem to be able to decide whether we want to specialize, on the one hand, or to protect, on the other.

Senator Connolly: Are we getting ready for a much bigger population?

Mr. Beigie: I do not think so.

Senator Macnaughton: Earlier in your remarks you made a statement which was very exciting and interesting, and you may have partially answered my question in answering various other questions put to you about Canadian progressives. If I quote you with reasonable accuracy, what you said was something like this—that we rich, industrial countries today treat efficiency with less respect and we replace efficiency factors by governmental intervention.

Mr. Beigie: That is correct.

Senator Macnaughton: You developed the Adam Smith theory versus the, shall we call it, socialist trend theory—is that what you meant? That we are trying to make up for the marketplace competition by government boards and directives and things of that nature?

Mr. Beigie: No, I did not mean that. That is a different element. I think the starting point is this: efficiency—productivity—means that you have to put up with some things that are unpleasant. For one thing, you have to work.

Just to give you a simple example, as the hourly rate of pay increases, the willingness and the desire to take some of that higher income in the form of increased leisure comes into play. It used to be that guaranteed job security was treated as something special. A person working for the Civil Service, for example, would treat that as something special—my father did—because they knew they would not be laid off unless in the event of a very deep recession. As a result of that, they were willing to take a lower rate of pay than those working with a much higher risk of losing their jobs. Now that we have become rich and affluent, far more so than in that period soon after the depression and World War II, it is considered to be society's responsibility to look after the unemployed. Therefore, security means very little and people in the so-called "safe" jobs want what they could get from the private sector in terms of wages, even if they have a great degree of job security, because if they are laid off the government will look after them. That is an insistence on the part of the public to say that mobility and moving around are not important.

Let me pick an example which will be non-controversial.

The Deputy Chairman: That will be difficult.

Mr. Beigie: How about hula hoops, or buggy whips?

The Deputy Chairman: Yes.

Mr. Beigie: If the public did not want them any more, or if we found a new country in international competition in terms of who could supply them at a very low cost, it used to be part of the philosophy in North America or, at least, in the United States, that the workers must find new jobs. Now there is increasing pressure for government subsidies to keep the thing going, for protection, non-tariff barriers, voluntary, so-called, export restraints and all of this, in order to preserve the job in its place, doing the same kind of thing without having to face up to the situation. Now, that is all very well and good. If that is how we

wish to take a portion of our higher income, fine. However, the real question then becomes how fast will our income grow and how are we to keep it where it is if we are not constantly alert to the fact that competitive market forces have traditionally been the way in which we have really moved forward?

Senator Macnaughton: Have you any answer?

Mr. Beigie: Yes, it is the issue of challenges to complacency. I do not know how we will resolve it. I have negative answers, but we will not resolve it by telling the government to somehow create more and more money in order to subsidize us and keep us in a position in which we do not have to face this type of competition. This is why I lean toward the marketeer type of solutions, in the sense that as I read economic history the market has been a far more efficient allocative system for growth and expansion than dictates of government can possibly be.

Senator Macnaughton: I agree that that is the basic question. Also during your remarks we were discussing options for Canada, one being close integration with the United States in connection with trade. I believe the Department of External Affairs suggested that we should look toward Europe and outside the North American continent. In other words, why go to Europe? You said, if I understood you correctly, that our natural association is south, rather than across the oceans.

Mr. Beigie: That is in the sense of just transportation costs alone.

Senator Macnaughton: But how true is that? For example, the Europeans are leaders in machinery. They are just as good as the Americans, and in many cases better, and have been at it for very much longer. In the electrical field they are just as great as any American company. I can cite you not dozens, but a few outstanding multinational corporations in Europe which can compete on an even basis with American and Canadian concerns. Now, if we accept your thesis, it would mean that the Canadian government would, for instance, give five per cent or 10 per cent preference to American corporations, but that does not follow. They are very good at making many things, but the Europeans are extremely good in other directions. Examples are machinery, electrical equipment and pharmaceuticals. They are leaders and have been, parhaps because they started first. They lead in construction techniques, even. The war forced them to use cinders and other such material rather than lime in making cement. They lead even in clothing, styles and other aspects. You would not shut us off from that market, would you?

Mr. Beigie: There is absolutely nothing inconsistent between what you say and my remarks, but it does require elaboration.

Senator Macnaughton: Yes.

Mr. Beigie: My suggestion was that it is not realistic to look to Europe as a big market for our exports in line with our decision to move into the manufacturing sector. The fact of the matter is that my preference is exactly the same as that of the Economic Council, as I interpret their preference—that is, to move as fast as possible to as full liberalization in trade in all quarters as possible. However, if we are going to go and seek special relations, I cannot see the basis for separating out Europe, Japan, or any other group of countries that excludes the United States in our interests. I fully agree with what you said, that we should be looking to Europe for the import of technology and let us apply Canadian labour skills to use that technology to supply the U.S. market.

My point is simple. It will be extremely difficult to look to markets which can compare at all with the United States market as a source of outlets for Canadian products. In terms of gathering skills, whether it be technology, ideas, or whatever, we can get those from anywhere. My point would be that the third option is great as long as it is a heightening of the awareness of the Canadian business community of opportunities that legitimately exist in Europe and other parts of the world. That part of the third option is great, but we cannot, it seems to me, in our best interests go down the road of trying to create differential preference arrangements. We are not going to get it; Europe is not going to be this silly. It would be the start of a real trade war if the European Community proliferated its preferential agreements even more. We are in an economic type of conflict today, no longer military, and in my opinion there is not a sufficient recognization on the part of the Canadian public, first as to what the Canadian government means by a contractual link with Europe; second, what the very strict limitations would be and what Europeans would be willing to do with us, how far they would be willing to go. However, I view trade liberalization principally in the context of access to markets. If we cannot continue to have good access to the U.S. markets, I do not believe anything is around that can substitute for that; that is all.

The Deputy Chairman: Could I ask a supplementary to your question, Senator Macnaughton? Is the real question not whether Canadian government policy should be directed toward decreasing the 70 per cent acceptance of our exports by the American market? In the third option are we really saying that we want to reduce that and make it 60/40 or 40/50?

Mr. Beigie: If that happens, fine. I would not, myself, adopt it as a conscious policy tool; I would let it happen. If it could be 70 per cent of trade that is twice as much as the present volume, that would be more important in my opinion than having 50 per cent of a stagnating total level of trade. I am not a big fan of quotas in any context. There is, in my opinion, much more serious work that needs to be done with respect to this whole question of vulnerability to the U.S. The fact of the matter now is that the world economy is in such symmetrical ups and downs that to replace 10 percentage points of our trade with the United States by 10 percentage points of trade with Europe will not make us any less vulnerable in terms of the cyclical fluctuation.

The Deputy Chairman: The reason I raised it is that so often we are asked the question in Europe as to what we are complaining about, as the United States takes 70 per cent of our exports. They say they will take that any time.

Senator Macnaughton: Just to finish that statement, some of the factors we should consider in trade with Europe are, surely, the capital investment which they have the ability to place in this country, and which we need; the research, in which they are pre-eminent, perhaps in the

world; and the marketing skill, because for generations they have dealt with the world in many of their multinational corporations. It gives us a choice other than the States. My next question is—

Mr. Beigie: Could I interject there to see if this is at all constructive? My preference would not be for creating any special relationships for Canada at the present time. I would like to see Canadian policy directed to what is beneficial in any relationship. But if we are forced to have a single special arrangement—if we are forced—then I am afraid that in my assessment we had better hope that the special relationship would be with the United States.

Senator Macnaughton: That is 70 per cent of the answer. You may have dealt with this. I happened to be out of the room for a few minutes. I refer to the exchange rate. We have a very high Canadian dollar at the moment, and it seems to be going higher. Interest rates in Canada are very high vis-à-vis the U.S.A., and they may go higher. Obviously the cost of business is going up, which will not help us too much. Wages are also going up. It seems to me that we are on a collision course. You have said something about it. I wondered if you wanted to say anything else—

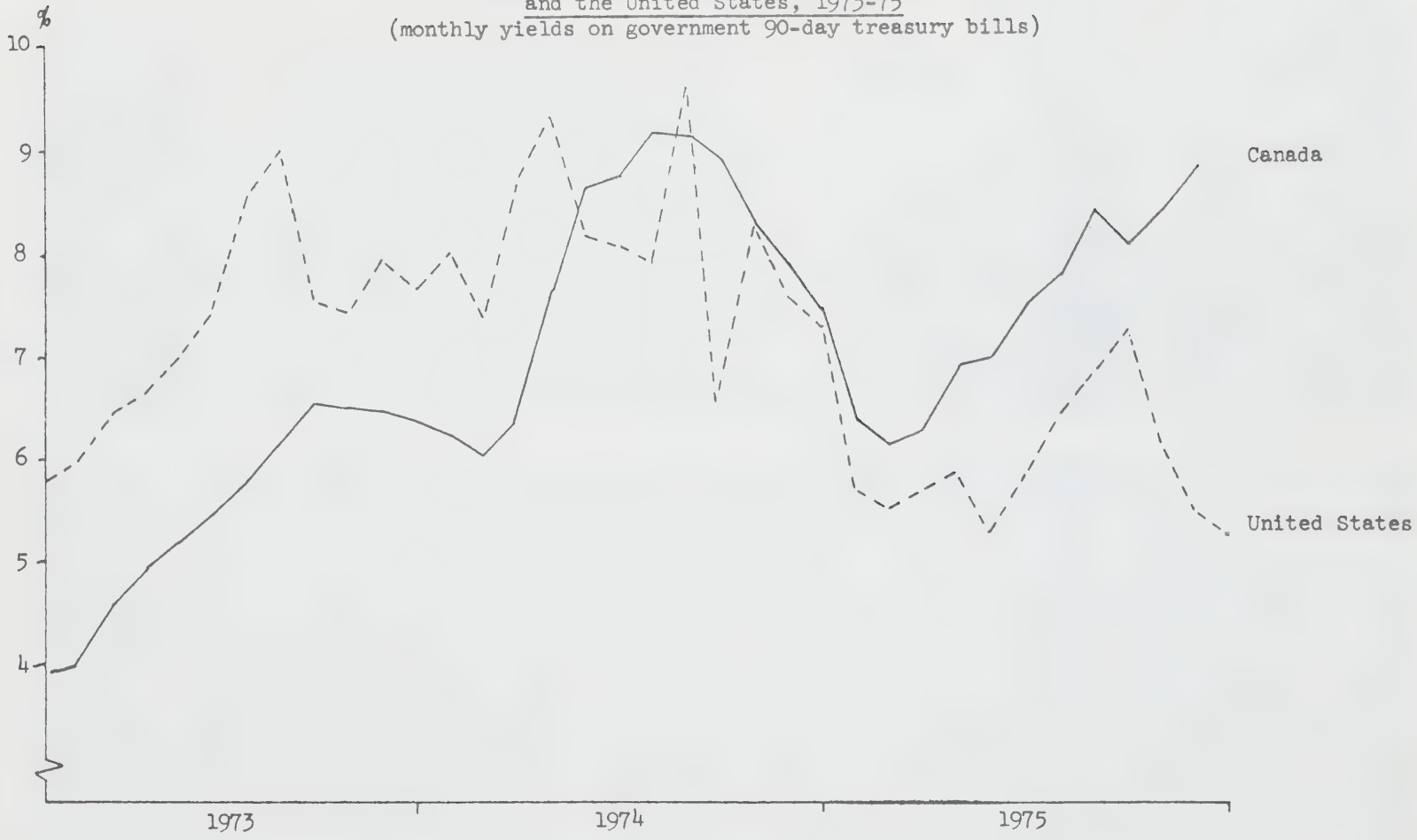
Mr. Beigie: I did not have an opportunity to expand on the exchange rate issue while you were out of the room—

Senator Macnaughton:—About such things as the Bank of Canada and so on.

Mr. Beigie: That is right. This really goes back to the point I made earlier, about just how long we can continue down divergent paths. For a while back in the early 1970's, up until early 1974, we were significantly below U.S. interest rates in the short-term markets (*See Chart 2*).

CHART 2

Short-Term Interest Rates in Canada
and the United States, 1973-75
(monthly yields on government 90-day treasury bills)



Source: Bank of Canada Review and Federal Reserve Bulletin, various issues.

Mr. Beigie: How did we achieve that? By running the printing press faster than in the United States. We now have the Bank of Canada adopting a strict policy, which I very much hope they are successful in pulling off, of trying to cut back on the rate of growth of money supply. The consequences in the short term will be that there has to be a mechanism for rationing the limited availability of financial resources, and that will have to be, I am afraid, the interest rates.

I must say, in this context, that I do not understand the rationale for the latest increase in the bank rate. I am prepared to be convinced that it was necessary, but I find it extremely curious that at a time when we are now buying in the order of a quarter of a billion U.S. dollars in order to hold down the exchange rate—that is about what the government purchased in January and February—we are offering high interest rates that attract more foreign capital, and we then have to intervene in the exchange market with scarce funds, which we have to borrow on the Canadian market, in order to hold down the exchange rate. If that sounds circular and curious, that is certainly the way that I respond to it.

I do think that while I have great respect for what Governor Bouey is attempting to do—and I think it is absolutely essential—any rigid adherence to monetarist rules in the short run does have very serious possibilities for problems. I would suggest, on the exchange rate issue, that we have done about $3.5 billion worth of long-term borrowing in the United States over the first quarter of this year. That will probably supply a substantial portion of needs of Hydro Quebec, Ontario Hydro, and so on, and there will probably be a tapering off of long-term borrowing in the United States, even at the existing interest rate differential. We will probably have a slowing down of the pressure on the exchange rate, which will give us an opportunity to get it down a little bit. But it is extremely complicated and curious, and mainly the result of the fact that we got out of whack for a couple of years and we now have a process of adjustment that is not going to be easy.

Senator Macnaughton: In another committee we have been examining the textile industry. The industry has portrayed itself as being very efficient in competition with worldwide forces in its particular field, and it does not try to cover the waterfront. It has come out that most countries around the world protect their textile industry. In the United States it is 70 per cent. In Canada it is 43 per cent. Probably part of the answer is that in order to make trade deals someone has to suffer. What have you to say about that?

Mr. Beigie: As this committe knows, one of our committees and one of our staff Caroline Pestieau had done a study of the textile industry in Canada. There is no question that one of the very legitimate issues raised by the domestic textile industry—it is an issue that I think spreads across all ecnomic policy issues—is just how far we can afford in our own interest to be too different from the rest of the world. If we are relatively less restrictice, in terms of our textile import policy, than the other advanced industrial economies, we face a very serious prospect of getting flooded. I think the industry has a very legitimate case to be made that we have to be very careful. I think the government is trying to adopt a policy. It has not worked as well as they would like; but we do have to be very careful about how different we are in terms of this, or we face trouble.

I must say, that same prescription, about being careful about how different you are, applies to tax policy. It is very difficult for us to adopt policies that are significantly different from those that are available to investors in other parts of the world if we are going to be an attractive place in which to put capital. I think your point, senator, about Europe being a source of capital is very important. We have to be careful that in our legitimate pursuit of national objectives we are mature enough to realize that there are very real constraints on just how different we can be.

Senator Macnaughton: Mr. Chairman, I will not ask our witness to discuss incentive inducements to private individuals.

The Deputy Chairman: We are dealing with that in another committee, in any event. Are you through for the moment?

Senator Macnaughton: Yes.

The Deputy Chairman: Senator McElman, it is now 10 minutes to 12 noon and we usually try to adjourn by noon. If anyone has a further question, will he pleases, indicate? In the meantime, I shall call on Senator McElman.

Senator McElman: Because of that reminder, Mr. Chairman, may I ask you, since time has been so limited for us to pick this wondrous mind, whether we may have some agreement that perhaps the witness will be back?

The Deputy Chairman: I was going to raise that question before we adjourned.

Senator McElman: Very good. That was my first question.

Referring to the suggestion from Senator Macnaughton that the type of government intervention we have been seeing, through subsidy and so on, is a trend towards socialism, would you not agree that, quite to the contrary, the trend by government of subsidizing inefficiencies within the capitalist system, and thereby encouraging and continuing inefficiencies, is something totally foreign to socialism?

Mr. Beigie: Yes. I am personally very careful when I use the word "socialism," which has a precise meaning in literature and thinking, which is public ownership of the means of production.

Senator McElman: Exactly.

Mr. Beigie: I think it is one of those words which get changed around through popular misuse over time. I think that is very definitely the case.

My horror story on exactly the point you make is the Chrysler bail-out in the United Kingdom. It seems to me that we have some real problems in that area. I personally think this is one of the pressures for nationalization in government ownership. If there is a drift towards truly defined socialism, one of the factors is that governments are unprepared to bail out without having any real control over the amount they have to pay to bail out. I must say, as a general principle, no one in Canada is more against

government ownership than I. There are certain areas where it is appropriate. There are many areas where I think it is a reflection of failure of government policy rather than strength of government policy, and I want to make that very clear as a personal position.

Senator McElman: It would apply particularly in the manufacturing sector.

Mr. Beigie: Exactly. I must admit, if I were the government official making such decisions, being forced, either because of regional or provincial pressures, to keep a company afloat which could not cut it on its own in the marketplace, I would probably want to take the darned thing over in order to minimize the amount of bail-out required. So, I am sympathetic with that approach as a rationale. I think we have to become a country that is more willing to take the position that those who cannot cut it on their own will have to find something else to do with their time.

Senator McElman: That carries me through to my final question, Mr. Chairman.

We have not had any discussion this morning, within the structures we have been talking about, of the growing power influence and effect of multinationals. If I could just carry you back for a moment to the example of the red paper tissue, let us say that the two governments did set up the kind of arrangement you have suggested and we had one unit in Canada handling the red paper tissue market internationally, how could there be any bilateral agreement between the two nations that would prevent the multinational, if things got a little tough, from deciding to close down the unit in Canada, notwithstanding the country-to-country agreement? This would be something within the control of the multinational in order to cut its losses in a particular area. It would be something at its will and decision, quite beyond the control of the governments which made the agreement. Are we not beginning to face more and more, with the emergence of multination, their ability to evade government controls, which the governments have put in place because they believe them to be in the best interests of the individual nations, or a group of nations?

Mr. Beigie: I must say, this is a subject on which we could probably productively spend an entire session.

Senator McElman: I just wanted to move into it—perhaps to stress that we need you back.

Mr. Beigie: I could not agree more that this is an issue. I think it is an issue on which we have to spend some time in straightening it out. What is not always clear to me is whether concern of the sort you have expressed is a view that multinationals behave irrationally or, as I believe to be the case, that they are the mechanism which is forcing closer harmony between the policies of individual nations.

Why would they want to pull out of Canada? If they are making a reasonable profit, they are not going to want to. If the taxation policies are excessively burdensome in this country, then it does not matter whether they are multinational or domestic, they will probably ease out of the industry in question, either through import competition, or whatever, over time. If it is because workers are going to be displaced because they have demanded too much money in the first place, then, again, they will ease out.

To go back to the Chrysler case in the U.K., the government is willing to subsidize, at great expense to the public, a multinational company that is, in effect, saying, given the labour performance it has it cannot cut it in the marketplace.

Such subsidization creates an incentive for the employee to ask for ridiculous wages and for the company to grant those demands in order to keep production up, because it can simply go back to the government for a bigger subsidy.

There is a real question as to whether the multinationals in general wear black hats or white hats. My experience is that the public's perception of multinationals has been formed by those who wear black hats, the percentage of which, I feel, is small. My own view is that multinationals are a force for resolving those basic questions that governments seem, because of political pressures, unable to come to grips with, and if they continue to fail to come to grips with them, then multinationals will become a problem. They are not going to wait around for governments to sort these things out.

I happen to be a strong supporter of the multinationals. I think they are a force towards greater coordination of international policy.

Senator McElman: You are suggesting that they can become a "plus" factor in counterbalancing stupidities of goverments.

Mr. Beigie: Well, that is your phraseology, senator.

The Deputy Chairman: Perhaps we can have Mr. Beigie back on the subject raised by Senator McElman, as well as other honourable senator's.

Senator Barrow, I believe, had a question.

Senator Barrow: Did I understand you to say, Mr. Beigie, that Canada had more potential for expanding its trade, especially in the field of manufacturers, than any other country?

Mr. Beigie: Expanding its efficiency in the area of manufactures. The objective is to expand efficiency. That is the end. The means is through expanding to multi-way flows of trade. The reason is that this country is about the only major industrial economy today that is not a participant in the manufacturing sector, aside from autos and a few other commodities, of a large duty-free access area.

Senator Barrow: There is great fear that the electronics industry in Canada is going to be phased out. Do you have any comments on that?

Mr. Beigie: From everything I have been able to determine about it, I think it is a serious problem. It is an industry that is almost classic in that unless you keep new processes, new technologies, new innovations generated, you quickly get to the point where you standardize production and, therefore, labour costs become the critical determinant. It is a low transportation cost industry because it is so compact. As a result of this, the companies, naturally—and I do not care who owns them—are going to try to go quickly to the low-cost source of production for highly standardized products. The secret, it seems to me, is to create a domestic capability to generate innovation quickly.

I might say, one of the things I did not want to get into is the question about the interrelationship between investment decisions, trade and industrial performance. My own preference, to kind of lift the lid a little bit on this subject, is to integrate these three in an overall approach. My personal view is that the Canadian economic community, in particular, has not given sufficient time to alternatives through the domestic route to increasing our efficiency through the promotion of rationalization within Canada on a phased basis so that we can have greater ownership of Canadian firms, consistent with a trend towards trade liberalization. That is a very careful staging process that I think needs to be examined.

The deputy Chairman: Honourable senators, it is almost 12 o'clock. There are one or two matters that I should bring to your attention. First of all, our witness has spoken of some charts he has in his possession. Is it the wish of the committee that I, and the staff, and perhaps the chairman, look at these and select some that we might ask to be made available for the record?

Hon. Senators: Agreed.

The Deputy Chairman: As honourable senators will recall, it was agreed at the last meeting that a summary that I prepared of the Canada-U.S. items in the GATT Inventory of Non-Tariff Items should be appended to our record. I have copies of that summary here. Is it the wish of the committee that they be distributed to all members of the committee?

Hon. Senators: Agreed.

The Deputy Chairman: Honourable senators, on behalf of the committee it is my pleasant duty to express our thanks to our very distinguished witness for the most interesting, informative and provocative presentation he has made to us. It is particularly important that he has indicated some areas of special inquiry, some matters that we should make it our business to look at. Then, hopefully, the committee will come up with at least opinions on, if not answers to, the problems that he has posed.

Finally, I think the finest tribute we can pay to Mr. Beigie is to say that it is the unanimous decision of the committee that we should have him back. Perhaps I can ask him if he will be available to appear again before the committee at his convenience.

Mr. Beigie: I am at your disposal, Mr. Chairman.

The Deputy Chairman: I will so report to the chairman. With that, our very sincere thanks to you, Mr. Beigie. Perhaps I should say to you that your audience has comprised no less than 15 senators of a committee membership of 20. It has fluctuated a little, but you will understand, in spite of some public concepts to the contrary, the Senate is a busy place any morning or afternoon, and many evenings.

The committee adjourned.

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1974-76

THE SENATE OF CANADA

PROCEEDINGS OF THE

STANDING SENATE COMMITTEE ON

FOREIGN AFFAIRS

The Honourable GEORGE C. van ROGGEN, *Chairman*

Issue No. 30

TUESDAY, APRIL 6, 1976

Twenty-eighth Proceedings Respecting:

Canadian Relations with the United States

(Witnesses: See Minutes of Proceedings)

THE STANDING SENATE COMMITTEE ON FOREIGN AFFAIRS

The Honourable George C. van Roggen, *Chairman*

The Honourable Allister Grosart, *Deputy Chairman*

and

The Honourable Senators:

Asselin	Lafond
Barrow	Laird
Bélisle	Macnaughton
Cameron	McElman
Carter	McNamara
Connolly (*Ottawa West*)	Rowe
Croll	Sparrow
Hastings	Yuzyk

Ex Officio Members: Flynn and Perrault.

(Quorum 5)

Order of Reference

Extract from the Minutes of Proceedings of the Senate, Wednesday, November 6, 1974:

"Pursuant to the Order of the Day, the Senate resumed the debate on the motion of the Honourable Senator van Roggen, seconded by the Honourable Senator Riel:

That the Standing Senate Committee on Foreign Affairs be authorized to examine and report upon Canadian relations with the United States;

That the Committee be empowered to engage the services of such counsel and technical, clerical and other personnel as may be required for the purpose of the said examination, at such rates of remuneration and reimbursement as the Committee may determine, and to compensate witnesses by reimbursement of travelling and living expenses, if required, in such amount as the Committee may determine;

That the papers and evidence received and taken on the subject in the preceding session be referred to the Committee; and

That the Committee have power to sit during adjournments of the Senate.

After debate, and—
The question being put of the motion, it was—
Resolved in the affirmative."

Robert Fortier,
Clerk of the Senate.

Minutes of Proceedings

Tuesday, April 6, 1976
(36)

Pursuant to adjournment and notice, the Standing Senate Committee on Foreign Affairs met at 3:35 p.m. this day.

Present: The Honourable Senators van Roggen (*Chairman*), Bélisle, Cameron, Carter, Connolly, Grosart, Lafond, Macnaughton, McElman, McNamara, Rowe and Sparrow. (12)

Present but not of the Committee: The Honourable Senator Riel.

In attendance: Mrs. Carol Seaborn, Special Assistant to the Committee; Messrs. Robert Robichaud and Bill Neil, from the Library of Parliament, Research Assistants to the Committee;

The Committee continued its study of Canadian Relations with the United States.

Witnesses:

From Department of Industry, Trade and Commerce:

Mr. F. T. Jackman, General Director, Office of International Projects; Mr. William Grant, Director, Defence Programs; and
Mr. O. W. Bennett, Chief, Market Research and Administration Division.

During the course of their submission, the witnesses made use of a series of charts, graphs and tables.

Agreed,—That, where feasible, certain of the above mentioned charts and tables be included in the Committee's printed proceedings.

At 5:33 p.m. the Committee adjourned to the call of the Chairman.

ATTEST:

E. W. Innes,
Clerk of the Committee.

The Standing Senate Committee on Foreign Affairs

Evidence

Ottawa, Tuesday, April 6, 1976

The Standing Senate Committee on Foreign Affairs met this day at 3.30 p.m. to examine Canadian relations with the United States.

Senator George Van Roggen (*Chairman*) in the Chair.

The Chairman: I would like to welcome today Mr. Frank Jackman, of the Department of Industry, Trade and Commerce. We not only thank you for coming, but apologize for the fact that this is your third appointment with this committee and that, regretfully, one thing or another interfered with respect to the first two occasions on which you were to appear.

Mr. Jackman is to discuss with us the subject of defence production sharing. He is General Director, Office of International Special Projects in the Department of Industry, Trade and Commerce. From 1966 to 1971 he was director of the Canadian office in Washington concerned with the Canada-United States Defence Production Sharing Program. Since his return to Ottawa he has continued to be in charge of this program.

With Mr. Jackman today is Mr. O. W. Bennett, Chief, Market Research and Administration Division, and Mr. W. E. Grant, Director, Defence Programs Branch.

The main aspect of interest of today's subject for the committee is its effect on bilateral trade and the opportunities it presents for trade, rather than Canada's defence needs. I do hope that, while it is of interest to us all, senators will keep in mind during their questioning that we are discussing Canada's international trade rather than Canada's defence directions. Like the Auto Pact, it allows the committee to examine a sector of quasi-free trade, or at least an agreement which aims at providing a potential balance in trade between the two countries.

To remind members, the next meeting of the committee is on Thursday morning of this week, with Mr. Patrick Lavelle, President of the Automotive Parts Manufacturers' Association of Canada.

I will ask Mr. Jackman or his associates to commence their presentation, following which Senator Rowe has kindly consented to lead off the questioning.

Mr. Frank T. Jackman, General Director, Office of International Special Projects, Department of Industry, Trade and Commerce: Thank you, Mr. Chairman. I thought it would be useful to run through a short historical background of the program as we know it today. It is one that is fairly deeply written in history in the Canadian context, going back to its early origins in 1941, with the Hyde Park declaration. It might be interesting to quote in part from that declaration, a statement which certainly has persisted through the years and one which holds true even today. After the preamble, the statement reads as follows:

> In addition, it is of great importance to the economic and financial relations between the two countries that payment by the United States for these supplies will materially assist Canada in meeting part of the cost of Canadian defence purchases in the United States.

The reciprocal aspects were recognized at that point. It was clear that major weapons systems which we could not produce for our own requirements would have to be purchased elsewhere, and if we were to purchase them elsewhere, purchases of a similar and compensating nature made in Canada would, in effect, over the long term provide us with a balance. Subsequently, there were other agreements and arrangements entered into between Canada and the United States, which may be seen listed on the first slide.

CHART 1

DEFENCE PRODUCTION SHARING PROGRAM

History of Canada-Unites States Defence Co-operation

Hyde Park Agreement 1941 (World War II) Rationalization B.O.P.

Principles of Economic Co-operation 1950

NORAD 1959—COMMON DEF N. AMERICA

Defence Production Sharing 1959

"Rough Balance" of cross-border defence procurement

Memorandum of Conversation, June 1963

Co-operative Development

Memorandum of Understanding, November 1963

Defence Supplies Remission Order-1966

The Principles of Economic Cooperation in 1950; the NORAD Agreement, first entered into in 1959, which set the keynote for a common defence posture in North America and allied us with the U.S. in the defence of the North American continent. Then, in 1959 the first phase of the Defence Production Arrangement, which provided the basis for a rough balance in cross-border defence procurement. That was subsequently embodied in a Memorandum of Conversation between the then Minister of Defence Production and the United States Secretary of Defence in 1963. Cooperative development was covered in a separate Memorandum of Understanding, also in 1963, which provided basically that where there were requirements of a similar nature in Canada and the U.S. we would seek to combine the developmental resources of both countries in evolving equipment to meet those requirements, also to give each country access to the capabilities available in the other country. Subsequently, in 1966, to provide some further semblance of balance to the arrangement, was the Defence Supplies Remission Order. In the original arrangement it was provided that Canadian defence and defence-related products entering the United States

against U.S. military orders would enter duty-free and would be relieved of the impositions of the Buy American Act and other restrictive administrative and legislative arrangements erected by the Americans as protective devices. The Defence Supplies Remission Order, which has been altered slightly since, provided that U.S. supplies entering Canada of a value in excess of $250,000 would enter duty free. In other words, if we were to purchase a major system or major equipment in the U.S. it would enter on the same basis as a major purchase by the U.S. from Canada. However, because of the other anomalies in the U.S. system of access, a floor on the duty was retained because this then would protect the smaller dollar routine purchases which were made in Canada from Canadian suppliers. It was really with regard to the total system and the large components of sophisticated systems that we were interested in participating in both ways, but the program was structured so that there was access to the Canadian and U.S. markets for the military services of both countries.

Senator Connolly: These were entirely inter-governmental agreements, were they, Mr. Jackman?

Mr. Jackman: Yes, senator, they were.

Senator Connolly: And the vehicle whereby the agreements were implemented was the tariff, I take it, in each case?

Mr. Jackman: In the U.S. case, yes; subsequently in the Canadian case. In the U.S. case when the original 1959 arrangements were entered into the U.S. relieved us of the payment of duties and relieved us of the impositions of the Buy American Act.

Senator Connolly: But the governments from 1941 on did not deal with production matters in Canada or in the United States?

Mr. Jackman: You mean, in terms of regulating production.

Senator Connolly: Yes, it was the industries themselves which were producing for these programs which went ahead with their work on a contractual basis across the border, I take it.

Mr. Jackman: There was a period during the Korean War when there were controls in certain sectors, but that was a relatively short period. During the period we are examining, from 1959 forward—and we have oft-repeated that the forces of competition were at play—we were offering to the U.S. equipment and components on a price, quality and delivery basis and, likewise, we were shopping in the U.S. against Canadian and other foreign suppliers on a quality and delivery basis.

CHART 2

DEFENCE PRODUCTION SHARING PROGRAM

Objectives

1. Increased integration of defence industrial development and production between the two countries
2. Increased standardization of military equipment
3. Wider dispersal
4. Establishment of supplemental sources of supply
5. Removal of obstacles to the flow of defence supplies between Canada and the United States
6. Exchange of information on defence economic matters between Canada and United States government agencies
7. Determination of Canadian facilities available to supply United States requirements
8. Most economical use of defence funds
9. Opportunity for Canadian firms to compete equally to supply United States military requirements

The objectives of the program stated here were: to increase the integration of the defence industrial development and production basis between the two countries—in other words, to provide a North American base from which both Canada and the U.S. could draw without undue hindrance at the border; to increase the standardization of military equipment which, while it may not seem to be eminently a trade problem, if you have a market the size of the total U.S. and Canadian market you are going to develop and produce far more efficiently than you would solely for the Canadian market, obviously; to provide a wider geographical dispersal of the production base; the establishment of supplemental sources of supply; that is to give both Canada and the U.S. more freedom of access to the component and other peripheral suppliers required for major systems and removal of the obstacles of duty, the Buy American Act or other artificial impediments. Then there is the exchange of information on defence and economic matters between Canada and the U.S. This is undertaken annually and sometimes more frequently in meetings between our department, now, Department of Industry, Trade & Commerce, it being in the early days, the Department of Defence Production and the U.S. Department of Defense.

The Departments of Industry, Trade and Commerce, National Defence, and Supply and Services sit down with the U.S. Department of Defense, to exchange views on each other's long-term requirements to try to find areas where certain logical matching can take place, where we could engage in cooperative or joint development for the production of equipment at a saving to us both. The determination of Canadian facilities to supply U.S. requirements is following logically from this. Regarding the most economical use of defence funds, again it became apparent earlier on that not even a country of the size and wealth of the United States could go it entirely alone, and access to Canadian supplies was frequently beneficial; and opportunities, of course, for Canadian firms to compete on an equal basis for U.S. military requirements gave them access to that larger market which enabled them to remain in the business on an economic basis.

CHART 3

CANADA/UNITED STATES
PRODUCTION SHARING STATISTICS
1959—1974
—$ MILLION—

	1959-71	1972	1973	1974	TOTAL 1959-74
UNITED STATES PROCUREMENT IN CANADA					
PRIMES	1,663.7	80.1	115.3	87.0	1,946.1
SUBCONTRACTS	1,197.9	94.9	83.5	63.0	1,439.3
TOTAL	2,861.6	175.0	198.8	150.0	3,385.4
CANADIAN PROCUREMENT IN UNITED STATES					
PRIMES	703.5	49.1	100.1	149.9	1,002.6
SUBCONTRACTS	1,613.8	144.4	131.9	131.5	2,021.6
TOTAL	2,317.3	193.5	232.0	281.4	3,024.2
CROSS BORDER BALANCE					
IN FAVOUR OF UNITED STATES		18.5	33.2	131.4	
IN FAVOUR OF CANADA	544.3				361.2

We continue to the next chart. The magnitude of the program is demonstrated here over the life of the program from 1959, the 1975 figures are in the final phase of being assembled. From 1959 to 1974 you see a total of U.S. procurement in Canada of $3.4 billion, roughly; Canadian procurement in the U.S., of $3.02 billion giving a cross border in favour of Canada of $361.2 million.

We continue to the next chart. This one and some others we have reproduced, and we can leave them with you. It shows cumulative totals year by year. As the gap in the two curves widens and narrows, it is representative of the shifting balance from in favour of Canada to in favour of the U.S., and vice versa. Starting at the bottom of the chart there was a widening of the gap. The trend at the top end shows a narrowing again. This chart really is only to demonstrate the concept of rough balance in the long term. Attempts which have been made from time to time to define just how rough is rough have never really met with much success. But so long as the lines do not diverge too widely,—depending on which side of the argument you are on, you can demonstrate that they are converging or diverging.—As they move steadily upwards without wild swings, both sides have remained relatively satisfied.

CHART 4

CANADA-UNITED STATES
DEFENCE PRODUCTION SHARING
CUMULATIVE CROSS BORDER CONTRACTING
JANUARY 1, 1959—DECEMBER 31, 1974

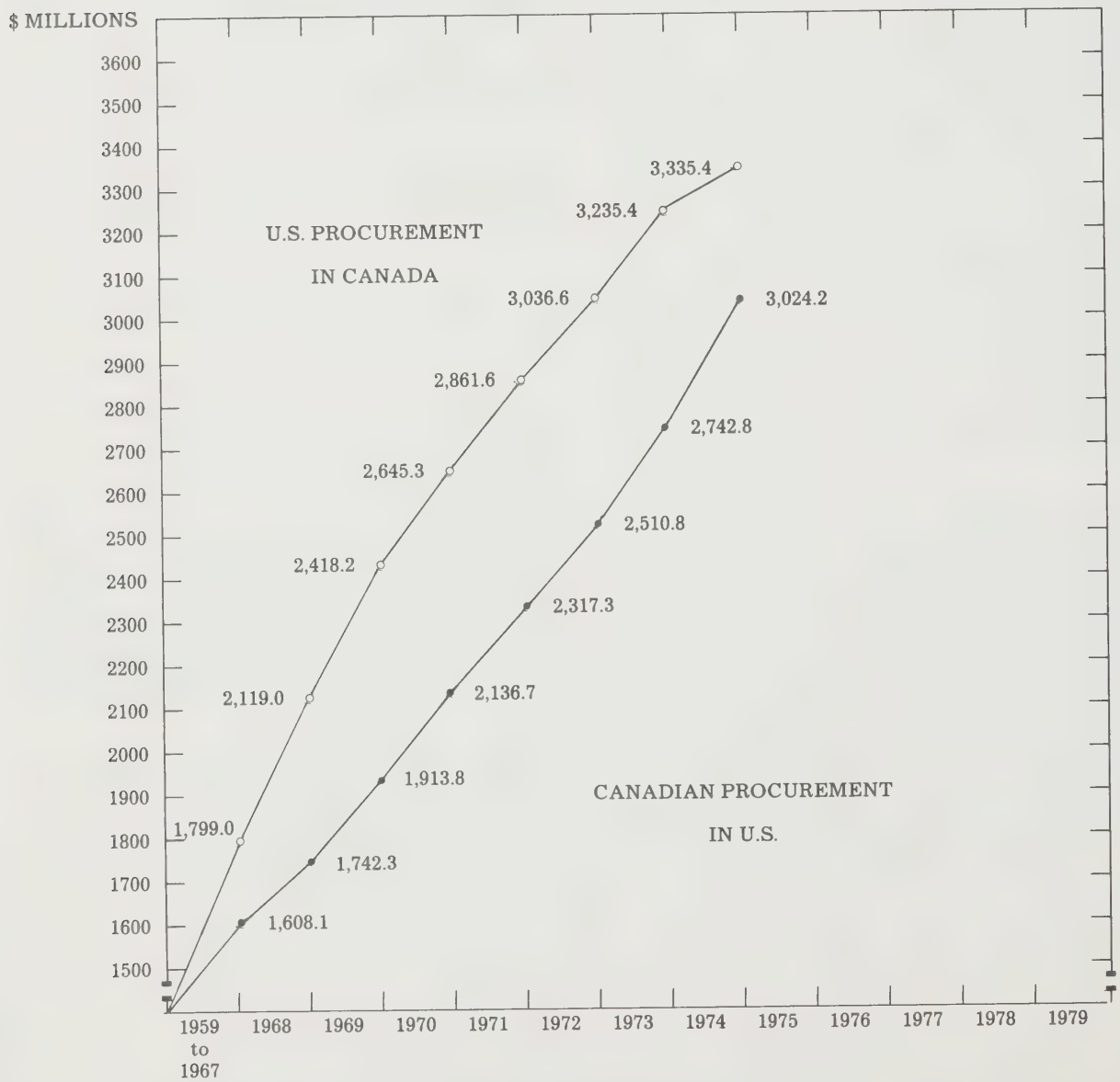


CHART 5

CANADIAN DEFENCE EXPORTS BY INDUSTRY SECTOR
1972—1974
—$ MILLION—

	1972		1973		1974	
	U.S.	OVERSEAS	U.S.	OVERSEAS	U.S.	OVERSEAS
AEROSPACE	53.5	85.2	55.0	73.9	58.1	79.1
ELECTRICAL & ELECTRONICS	58.1	32.9	69.7	31.1	60.3	35.8
MARINE	26.0	1.0	31.4	2.2	8.2	.5
MECHANICAL TRANSPORT	9.7	2.9	6.1	.2	6.1	ϕ
MACHINERY (ARMAMENT)	27.7	3.4	36.6	3.0	17.3	15.1
TOTAL	175.0	125.4	198.8	110.4	150.0	130.5
TOTAL EXPORTS	300.4		309.2		280.5	

ϕ LESS THAN $100,000

CHART 5A

CANADIAN DEFENCE EXPORTS BY INDUSTRY SECTOR
1959-1962
—$ MILLION—

	1959		1960		1961		1962	
	U.S.	OVERSEAS	U.S.	OVERSEAS	U.S.	OVERSEAS	U.S.	OVERSEAS
AEROSPACE	50.9	N/A	62.1	N/A	71.8	N/A	179.6	25.3
ELECTRICAL & ELECTRONICS	42.6	N/A	48.2	N/A	54.8	N/A	51.2	9.8
MARINE	1.0	N/A	0.4	N/A	0.4	N/A	0.2	ϕ
MECHANICAL TRANSPORT	0.2	N/A	0.2	N/A	1.8	N/A	1.3	ϕ
MACHINERY (ARMAMENT)	1.6	NA	1.8	N/A	13.8	N/A	22.0	10.0
TOTAL	96.3	N/A	112.7	N/A	142.6	N/A	254.3	45.1
TOTAL EXPORTS	96.3		112.7		142.6		299.4	

ϕ LESS THAN $100,000
N/A NOT AVAILABLE

CHART 5B

CANADIAN DEFENCE EXPORTS BY INDUSTRY SECTOR
1963—1966
—$ MILLION—

	1963		1964		1965		1966	
	U.S.	OVERSEAS	U.S.	OVERSEAS	U.S.	OVERSEAS	U.S.	OVERSEAS
AEROSPACE	73.6	40.4	99.8	29.0	164.2	47.8	171.7	31.0
ELECTRICAL & ELECTRONICS	51.9	7.9	35.9	19.6	43.0	14.1	93.9	7.4
MARINE	0.9	ϕ	3.4	ϕ	8.7	ϕ	10.8	0.2
MECHANICAL TRANSPORT	0.6	ϕ	1.0	5.9	3.9	2.5	3.3	7.2
MACHINERY (ARMAMENT)	15.0	4.9	26.7	5.3	39.7	3.3	37.4	22.5
TOTAL	142.0	53.2	166.8	59.8	259.5	67.7	317.1	78.3
TOTAL EXPORTS	195.2		226.6		327.2		395.4	

ϕ LESS THAN $100,000
N/A NOT AVAILABLE

CHART 5C

CANADIAN DEFENCE EXPORTS BY INDUSTRY SECTOR
1967-1970
—$ MILLION—

	1967		1968		1969		1970	
	U.S.	OVERSEAS	U.S.	OVERSEAS	U.S.	OVERSEAS	U.S.	OVERSEAS
AEROSPACE	151.5	101.0	135.5	102.7	84.5	77.1	111.2	95.9
ELECTRICAL & ELECTRONICS	93.6	22.4	83.6	7.0	118.3	20.5	61.9	8.9
MARINE	9.7	0.6	17.4	0.1	18.8	ϕ	12.4	0.1
MECHANICAL TRANSPORT	6.4	7.7	16.3	ϕ	5.6	ϕ	17.7	1.6
MACHINERY (ARMAMENT)	46.5	1.8	67.2	0.7(−)	56.6	2.5	23.3	3.2
TOTAL	307.7	133.5	320.0	109.1	299.8	100.1	226.5	109.7
TOTAL EXPORTS		441.2		429.1		399.9		336.2

ϕ LESS THAN $100,000
N/A NOT AVAILABLE

CHART 5D

CANADIAN DEFENCE EXPORTS BY INDUSTRY SECTOR
1971-1974
—$ MILLION—

	1971		1972		1973		1974	
	U.S.	OVERSEAS	U.S.	OVERSEAS	U.S.	OVERSEAS	U.S.	OVERSEAS
AEROSPACE	97.9	73.7	53.5	85.2	55.0	73.9	58.1	79.1
ELECTRICAL & ELECTRONICS	68.1	44.1	58.1	32.9	69.7	31.1	60.3	35.8
MARINE	7.9	ϕ	26.0	1.0	31.4	2.2	8.2	0.5
MECHANICAL TRANSPORT	8.1	ϕ	9.7	2.9	6.1	0.2	6.1	ϕ
MACHINERY (ARMAMENT)	34.3	2.4	27.7	3.4	36.6	3.0	17.3	15.1
TOTAL	216.3	120.2	175.0	125.4	198.8	110.4	150.0	130.5
TOTAL EXPORTS		336.5		300.4		309.2		280.5

ϕ LESS THAN $100,000

We thought it would also be of interest to show you the principal sectors in which the defence trade falls. I mentioned to your chairman before the hearing commenced that the statistics that are kept of trade both ways includes only manufactured products in the defence related area against certain supply category definitions, and it excludes what I would call "off-the-shelf" items—boots and shoes, light bulbs, fuels and lubricants, basic raw materials, and items of that sort. Although there are other procurements both ways, they are excluded from these figures and from the running balance that we keep as between Canada and the U.S. We are focused on the areas of manufactured goods in the relatively high technology area.

Senator Rowe: Does "aerospace" include aircraft?

Mr. Jackman: Aircraft and related products, by the complex Statistics Canada definition. Perhaps Mr. Bennett can elaborate on that.

Mr. O. W. Bennett, Chief, Market Research and Administration Division, Department of Industry, Trade and Commerce: Aerospace really means aircraft, airframe parts, aircraft engines and engine spares. Avionics—which, of course, goes into the aircraft—would be included in the electrical and electronic section.

Senator Carter: Are Canada's exports to the U.S. and overseas?

Mr. W. E. Grant, Director, Defence Programs Branch, Department of Industry, Trade and Commerce: Yes. These I am indicating are exports to the United States, and these are exports to countries other than the United States.

The Chairman: For the record, it might be well if, in printing that particular chart, we asked the clerk of the committee to insert the word "Canadian" at the beginning of the chart, so that it is Canadian defence exports by industry sector.

Mr. Jackman: Certainly.

Senator Connolly: The only point I wanted to make is that this chart and the previous ones should be included in our record.

Mr. Jackman: We shall be happy to do that, sir. As you suggest, Mr. Chairman, we will insert the word "Canadian."

Senator Connolly: They are given by years?

Mr. Jackman: Those are the totals. The totals by sector are above that line. The grand total is U.S. plus overseas. The totals in the line above that show the totals by year.

Senator Macnaughton: Mr. Chairman, could Mr. Jackman explain the greater shipment overseas, vis-à-vis the U.S. What countries, for example? Does that mean NATO?

Mr. Jackman: It could mean NATO or others.

Mr. Grant: For example, these (I am indicating) are comparison totals for the year, 1973. This is defence exports to the U.S., were $198 million, and $110 million overseas. In 1974, $150 million to the U.S., $130 million overseas.

Mr. Jackman: If you go into it by sector—for example, aerospace—there are not a lot of complete aircraft that we sell to the United States. We do sell them a lot of components, aircraft engines and engine spares. We would, however, be including in these overseas totals, for example, the sale of Buffalo aircraft to nations like Brazil. Cariboo aircraft formerly were sold to Australia.

The Chairman: Those exports were for defence purposes; those are not our total aerospace?

Mr. Jackman: No; they are in the defence sector.

Senator Carter: Are these exports for defence purposes, or could they be sold to Brazil for civilian use?

Mr. Jackman: No. These are exports for defence purposes.

Senator Connolly: I see the total export figures for 1972, 1973 and 1974 are respectively $300 million, $309 million and $280 million. For the sake of having it on the record, I am looking for defence exports expressed as a percentage of total exports of Canada to the United States.

Mr. Jackman: To the extent that I had notice of that question, and to the extent that I could get access to the numbers in the absence of people like Mr. Bennett who was elsewhere, in 1974 Canada's defence exports to the United States, as a percentage of overall Canadian exports to the United States, was approximately 0.7 per cent, just under one per cent.

Senator Bélisle: In view of the fact that Brazil was mentioned, would there be any amount going to the Warsaw Pact countries, to the Eastern countries belonging to the Warsaw Pact?

Mr. Jackman: No. To the extent that these items would all be covered by export controls, we have only maintained statistics in terms of defence items sold to NATO or other friendly countries, allied in one way or deemed friendly by the Government of Canada.

Senator Macnaughton: You might extend it to Cuba!

Mr. Jackman: I do not believe, senator, you will find any defence-related equipment having been sold to Cuba.

Senator Macnaughton: That was meant to be facetious.

Senator Rowe: I presume the 1975 figures are not available. Can we assume that the 1975 figures will follow much the same trend as exhibited on this slide, or has there been any major disruption?

Mr. Jackman: They would be very similar, senator. I will attempt to make the 1975 figures available to the committee as soon as they have been completed, which should be

very shortly. You will find little deviation. The general trend exhibited over the three years covered on this slide is continued through to 1975. Because of space limitations, we were only able to cover the three-year period.

Senator Carter: Is it just an accident that the figures are even from one year to the next, or do we operate under some agreement whereby they are spaced out in that way?

Mr. Jackman: It is a happy accident, perhaps, that they are even. There is no agreement which stipulates an amount for each sector. There will be swings, albeit minor swings, but over the course of time since 1959 they have established themselves in a fairly regular pattern. As the level of defence procurements in both countries goes up and down, so the general level of these figures will go up and down.

Senator McNamara: The sale and the procurement are all by government agencies? For example, a sale to Brazil would be negotiated by the Department of National Defence, and a procurement from Brazil by some other government agency, and there is no private industry involvement?

Mr. Jackman: In the case of a major piece of equipment, such as a Buffalo aircraft for Brazil, yes, that would be the case. However, as between Canada and the United States, there is a very heavy component of subcontracted items going both ways. It runs, variously, from 60 to 40 per cent, and back again, as between Canada and the United States. That is one of the principal advantages of the program, as we see it, in that it does provide for an integration of the defence industrial capabilities of the two countries at that level. A Canadian firm can be providing, literally, nuts and bolts into a United States defence manufacturing plant, and vice versa.

The Chairman: That would show up in the statistics?

Mr. Jackman: It shows up as between primes and subcontracts. As you can see, they follow a fairly regular parttern from year to year, as was demonstrated on a previous slide (slide 3).

Senator Connolly: Supplemental to Senator McNamara's question, as I understand it a requisition on a prime contrat might be raised either by the Department of National Defence in Canada or in the United States, and the low bid might come from some segment of the industry in either country, resulting in a contract with the successful bidder.

Mr. Jackman: That is correct.

Senator Connolly: So far as subcontracts are concerned, the successful bidder would then likewise shop around and get sources of supply either in Canada or in the United States, as he saw fit?

Mr. Jackman: That is correct, senator, and in relation to contracts involving major equipment a lot of that shopping around would have gone on before the invitation for bids was ever issued. It is that industrial relationship which we have tried to foster through the program. Looking at the ratio of prime contracts to subcontracts both ways, we feel the program has been successful in achieving that industrial relationship. There is a fair interchange at the subsystem and component levels between the two countries.

Senator McElman: Mr. Chairman, I am wondering whether it would be possible for the witness to provide the committee with the data for the twelve preceding years in relation to the chart preceding this one. A quick calculation would indicate an average of $220 million per year; yet, we see on the chart $309 million, $305 million, and so on. If we had the figures for the period since 1959, we could see exactly what the fluctuations have been.

Mr. Jackman: We do not have that specifically on a slide, senator, but I think we can get an impression from the cumulative slide of how the figures have built up.

The Chairman: I think that shows it to some extent, Senator McElman.

Senator McElman: I was thinking in terms of the categories that are set out in the previous slide, Mr. Chairman.

Mr. Jackman: Space limitations made it a little difficult to put all of that on one slide.

Senator McElman: I appreciate that.

Mr. Jackman: With a minimum amount of research, that information could be provided to the committee. We cannot do it from what we have here today.

Senator McElman: I am not asking for it today. I am just wondering whether it can be provided to the committee.

Mr. Jackman: Quite readily, yes.

The Chairman: In that case, I think I should ask the clerk, dealing with the slide entitled "Canadian Defence Exports by Industry Sector", to insert in the record at that point a chart running back to 1959 carrying the figures forward to 1974. (Note: See chart immediately following chart No. 5)

Mr. Bennett: I am not sure we have the figures right back to 1959 in this particular form.

The Chairman: It may not be in the same form.

Mr. Jackman: It may not have been that highly refined in the early years. We can go back to the extent possible. Certainly we can provide some data back to 1959.

Mr. Bennett: I know we have this data immediately available back to 1971. We will have to do some compilation for the period before that.

The Chairman: Thank you.

CHART 6

HIGHLIGHTS OF UNITED STATES PROCUREMENT IN CANADA, BY INDUSTRIAL SECTOR, DURING 1974 PRIMES

AEROSPACE:	Engine Spares and Parts Missile Systems and Spares Landing Gear Assemblies Engineering Services Aircraft Engines Ejection Seats and Parts	MARINE:	Pendant and Wire Rope Assemblies Naval Ship Valves
ELECTRICAL AND ELECTRONICS:	Radio Sets Weapon Release System Components Bathythermograph Transmitter Sets Map Display Units Computer Building Blocks Wide Band Communication System Magnetic Compensator Shipboard Radio Sets Computer Software and Services	MACHINERY: (ARMAMENT)	Picrite

Mr. Jackman: Moving on to the next slide, again to point out in the principal sectors the type of defence industrial trade we are engaged in with the United States, in the aerospace sector, vis-à-vis the United States, it is not complete aircraft; rather, as you can see, it is in engine spares, parts, subsystems, components, and so on.

Senator Connolly: Was there a time when none of that material was manufactured in Canada? When did this industry begin to assume some importance to the Canadian economy?

Mr. Jackman: Quite clearly it was during World War II. In the period 1940-41, onwards, there was a rapid build-up in this industry.

Senator Connolly: It was from that time on that we began to develop this technology?

Mr. Jackman: That is correct.

The Chairman: We might come back to a more general discussion of that very point, Senator Connolly, because it seems to me that this is an area of free trade, relatively speaking, with a high component of high technology items, as opposed to resources only, being exported from Canada.

Mr. Jackman: There are no basic raw material or resource items included in these statistics. In fact, they are, for program statistical purposes, excluded by agreement between Canada and the U.S. Department of Defense.

Senator Connolly: This is what we call secondary industry?

Mr. Jackman: That is correct, senator.

The Chairman: And quite a high technology form of secondary industry.

Mr. Jackman: Yes.

Senator Connolly: There is great skill required.

Mr. Jackman: We feel that this sector of our manufacturing industry provides employment for those skilled Canadians who would otherwise be drifting away.

Senator Connolly: Where do they get their training—on-the-job, in factories, or in schools?

Mr. Jackman: In large measure, they are the product of Canadian schools and universities, augmented, of course, by on-the-job training at various levels.

The previous slide illustrated the principal area of prime contracting. This, without deviating too widely, demonstrates the type of items at the subsystem or subcontract level that are being sold to the United States, an engine casting for a U.S. engine, where the manufacturer may have shopped around and found the best quality, price and delivery in Canada; a dome for a sonar system in the U.S.; and high technology components that are required in major weapons systems or any major military system. Where we may not have the capability in Canada to do the complete system, we can do parts of it.

Senator Macnaughton: Mr. Chairman, would the witness tell us the number of employees, generally speaking, in the industry?

Mr. Jackman: It varies. That is a difficult question. We have some numbers somewhere but I would have to give them to you in fairly broad bands. We deem them to be in the range of 10,000 to 12,000 directly employed on the manufactured items being sold to the U.S. However, you have this flow-down effect back in Canada as well. The chap who produces the aircraft engine castings buys bits and pieces from other Canadian firms. By the time this has flowed through the system, you have in the neighbourhood of 100,000 to 115,000 people involved. That is not full time, of course. You have in any one of these different years, however, 10,000 to 12,000 people employed directly in these areas in sales vis-à-vis the U.S., and 100,000 to 115,000 on a supplier basis in Canada.

Senator Macnaughton: Mr. Chairman, I was trying to get a figure relative to secondary industry vis-à-vis other sections of secondary industry.

Mr. Jackman: That is in terms of employment. As I say, 10,000 or 12,000 directly employed and something in excess of 100,000 part-time employees, you might say. Over the years there have been approximately 500 individual firms involved.

Senator Connolly: That is very interesting.

Mr. Jackman: You cannot say there are 500 involved today; they come and go. However, at any one time there will be in the range of 150 to 170 firms directly engaged in selling to the U.S. at the prime or sub contract level in the defence industrial sector.

Senator Connolly: I do not want to go off on a tangent with this question, and it is no more than what it sounds, but at the present time there is a debate going on in the U.S. Congress about the restriction of the supply of arms to foreign countries. I have heard some of this debate at the hands of very prominent people in the Congress. The people posing the policy of the U.S. government in this respect categorize this kind of sale as material of the merchants of death. Of course, that is always a threat when you are talking about a defence industry in the country. Would you say, Mr. Jackman, whether that kind of threat overhangs the producers of materials shown on that slide?

CHART 7

HIGHLIGHTS OF UNITED STATES PROCUREMENT IN CANADA, BY INDUSTRIAL SECTOR, DURING 1974 SUBCONTRACTS

AEROSPACE:	Aircraft Engine Castings	MARINE:	Sonar Dome
	Turboprop Engines		Naval Ship Valves
	Gear Boxes and Spares		
	Engine Components and Spares		
	Miscellaneous Aircraft Components		
	Vane Segments	MECHANICAL	Military Vehicle
	Turbochargers and Parts	TRANSPORT:	Engine Components
	Turbine Blades		
	Temperature Control		
	Helicopter Landing Gear		
		MACHINERY: (ARMAMENT)	Castings
ELECTRICAL AND ELECTRONICS:	Filters, R. F. I.		

Mr. Jackman: I believe reference to this slide demonstrates fairly amply that the Canadian industry is involved in the technology areas of transportation, communication and navigation predominantly.

The "arms"—if I may use that word, which is subject to so much misinterpretation—the arms content of the bulk of our trade between Canada and the U.S. is negligible. It is from time to time included. I believe you saw on a previous slide reference to picrite which is sold to the U.S. There have been exchanges both ways in ammunition. We do buy from the U.S. certain systems which we do not make at all in Canada, such as an anti-tank missile system or certain aircraft rockets, and other equipment of that nature. The preponderance of the Canadian activity is in areas which would have to be, by definition, other than arms per se.

Senator Connolly: That includes tanks and guns?

Mr. Jackman: We do not manufacture tanks in Canada, senator. Tanks and equipment of that sophistication would be purchased by Canada from other suppliers. However, we do, as was stated in the Hyde Park Agreement, attempt to balance our procurements by sales to our allies of those things we do best.

The Chairman: Carry on, Mr. Jackman.

CHART 8

HIGHLIGHTS OF CANADIAN PROCUREMENT IN THE UNITED STATES DURING 1974

COMMODITY	VALUE ($M)
Cooperative Logistics Spares and Accessories	30.5
C130H Aircraft	26.4
Guided Missiles	13.9
Heavy Anti-Armored Weapon	5.2
Airborne Warning Radar Receiver	5.1
Miscellaneous Communications Equipment	3.9
Repair Parts and Related Spares for H.M.C.S. Rainbow and other Naval Ships	3.6
U.H.F. Transceivers for Submarines and Surface Ships	3.4
Overhaul of S.M.P. Vehicles and Components	2.7
Underwater Sound Equipment	2.3
Bombs, Mark 82, Mod 1	2.3
Rockets, Rocket Ammunition and Components	2.0
Ammunition, 75 mm through 125 mm	1.8
Marine Hardware and Hull Items	1.7
TOW Field Test Sets	1.7
CH-47C Helicopter major components	1.2
Transportable Ground Tacan Beacon Systems	1.0
Development of Close Range Missile System	1.0

Mr. Jackman: The highlights of Canadian procurement in the United States, which is the reciprocal of what we were just looking at on the previous two slides, demonstrates the range of equipment of a more sophisticated and certainly, as we get further along in the chart, a more arms-oriented nature.

Dealing with the C-130H aircraft, the Lockheed Hercules, Canada is a fairly significant subcontractor to the Lockheed Corporation.

I believe I alluded to the heavy anti-armour weapon and that is the TOW, wire-guided anti-tank missile system. Canada having procured that from the Hughes Corporation, we are significant subcontractors to Hughes. It tends to be reciprocal trade, with us supplying what we do best from our industrial base, and buying what we must from the United States and others.

Senator Connolly: HMCS "*Rainbow*" is mentioned there. That is not one of the old ships that was available to the Canadian Navy in 1939; is it? That must be a new one, is it?

Mr. Jackman: I believe that "*Rainbow*" is a submarine which was obtained from the U.S. Navy. Is that correct, Mr. Bennett?

Mr. Bennett: Yes.

Mr. Grant: It is one of three submarines used for training purposes in Canada.

Senator Rowe: Non-nuclear?

Mr. Grant: Yes.

Mr. Jackman: It was a conventional submarine that was for training purposes, largely to provide targets for exercise for our anti-submarine forces.

Mr. Chairman, to wrap up, the prepared portion of our presentation, we feel that the arrangement has been advantageous.

CHART 9

HAS THE CANADA UNITED STATES PRODUCTION SHARING ARRANGEMENT CHANGED?

PRINCIPAL OF ECONOMIC COOPERATION

—Buy American Act

—Duty Free Entry

Certain restrictions remain

—Set asides

—Specialty metals

—"No foreign"

REGULAR STEERING COMMITTEE MEETINGS

—Reaffirmation of program

—Canada retains same access

—No new barriers

—Cross-border trade balance

The principles of economical co-operation have persisted through the years with relief from the Buy American Act and with access to the U.S. military market on a duty-free basis. Canadian industry has found an outlet far broader than would be available to them in Canada. However, some restrictions do remain. There are so-called small business set-asides in the U.S. which favour procurement by the U.S. military departments from designated small industries. The Specialty Metals amendment (to the Department of Defense Appropriations Act) was enacted by Congress to protect the industry in the U.S. from foreign imports. At the time that restriction was enacted, I understand it was principally against Japanese imports but we got caught up in the web.

There is "no foreign" preference, as you see, there (on the slide). It is a very difficult one to deal with. It is an area beyond the normal procurement activity, in that it is a security classification designed to protect U.S. technology in highly sensitive, that is to say, nuclear and other areas where, by legislation, it is controlled within the U.S.

I mentioned earlier on that we have regular steering committee meetings with the U.S. Department of Defense. When we meet, the program is re-affirmed. We have retained access on the same basis, essentially that was established in 1959, to the U.S. military market. We have seen no significant new barriers erected against us and we have continued, over the years, to trade in the expectation that in the long term there will be a rough balance between Canada and the U.S.

Mr. Chairman, we will be happy to deal with any questions your members would like to pose.

The Chairman: Thank you very much, Mr. Jackman. I would ask Senator Rowe to start the questioning.

Senator Rowe: May I say, first of all, this is a matter about which increasingly I realize I know very little. Any questions I ask may appear a little naive; they certainly will be elementary, in any event. Unlike Senator Connolly and perhaps others of my colleagues, I have not had any detailed knowledge of this matter, other than the vague understanding that there was this agreement. This committee is concerned, as you know, with Canadian-American relations in the broad sense of those words. In connection with these specific defence agreements, have there been any objections at all from, for instance, American industry to the effect that Canada has enjoyed such a favourable portion of this agreement?

Mr. Jackman: They would not be human if they did not object, senator.

Senator Rowe: Then there have been objections?

Mr. Jackman: There have been, of course. These have been directed through political channels in the U.S. and also directly into the U.S. Defense Department. However, thus far these have always been countered, successfully, with the argument that the program is of such net advantage to both countries that we see no reason for altering it substantially.

Senator Rowe: The hostility, if I may use the word, than, has not been very great, at least not sufficiently great to affect seriously, relations between Canada and the United States?

Mr. Jackman: In the heat of battle in the closely fought competitive procurement field, hostilities tend to emerge and tempers run high. However, this is normal and would be experienced internally, either in Canada or in the U.S. It is applicable to the markets of both countries on a complete North American basis.

Senator Rowe: I was interested in this term "rough balance". That balance, I take it, is examined from time to time and an effort is made the situation balance out. When there is a preponderance on one side or the other, can the rough balance be maintained by commodities other than those under the defence agreement? For example, I take it that pulpwood is not included.

Mr. Jackman: No.

Senator Rowe: If Canada were on the losing side, could that balance be equalized by, for example, additional pulpwood sales in the United States, or something of that nature?

Mr. Jackman: Over the years we have resisted the suggestion of moving in that direction, because it would then totally distort the focus we have on the defence sector. We have accepted the fact that from year to year there will be shifts one way or the other, but in the long term, as long as we maintain a rough balance—and again, "rough" is impossible of definition—as long as it does not vary dramatically or widely from the norm, both sides have agreed to let the program continue its course.

Senator Rowe: I take it, then, there has been general satisfaction on the part of both governments with this arrangement. I believe you said that earlier.

Mr. Jackman: That is correct, senator; it has been advantageous to both.

Senator Rowe: At the outset you said this was an arrangement for the defence of the North American continent. Does Mexico enter the picture at all anywhere, either as between Mexico and the United States, or in any way with this Canadian-American agreement?

Mr. Jackman: No, senator; this is an arrangement as between Canada and the U.S.

Senator Rowe: And, to your knowledge, there is no agreement between the United States and Mexico?

Mr. Jackman: No; to my knowledge there is no inclusion of Mexico within either this agreement or peripheral agreements which the U.S. may have.

Senator Connolly: I have found this very interesting, Mr. Chairman. I wonder, just for the sake of the record, if Mr. Jackman could indicate some of those who have really been in charge of this program at various stages, from the beginning. It seems to me that Mr. Sidney Pearce, who later joined the diplomatic service of this country, was one of our key people, in Washington, on defence procurement during the war days.

Mr. Jackman: Yes, senator, and in the days of the Korean War, Mr. Sidney Pierce was in charge of the predecessor of the program. I mentioned, I believe, a period during which there were controls in both countries. Mr. Pierce was in the embassy in Washington at that time, in the early 50s.

Senator Connolly: What other Canadian officials were in charge—your "predecessors", I gather would be the word to use?

Mr. Jackman: Donald Gilchrist, Norm Chappell and, of course, there have been others associated with the program here in Ottawa.

Senator Connolly: I only mention this because I believe that these men deserve a great deal of credit, Mr. Chairman. Not only have they provided some sense of continuity and security for the country, but the contribution to Canadian secondary industry as a result of these programs has been very great indeed.

Perhaps Mr. Jackman would like to comment on three points. One I describe as exclusivity—in other words, does the program compel us to restrict our purchases and sales to the United States? Secondly, spill-over—it is primarily defence, but what is the effect in other areas? The third point is dependence, by which I mean something that Grant Dexter at one time wrote about, shortly after or during the later stages of the war, that the U.S. defence industry was in fact dependent to a certain extent upon Canadian production in its final products. I just wonder what the status is now.

Mr. Jackman: Mr. Chairman, I would be happy to comment on all those points. In respect of exclusivity, I would say that we do not have it. Then, having said that, I would have to add that clearly the United States, in the defence sector, as in other sectors, is our best market. It may be hard to say that we are their best market, but we are certainly high on the list. We do have this arrangement with the United States which provides us with free access to each other's industrial base, providing effectively a common North American base. However, within NATO, and to an extent beyond NATO, we have bilateral arrangements wherein we discuss each other's defence requirements for the future and attempt, in much the same manner as we do with the United States, to find means of economizing through common development, or the utilization of each other's equipment as they may meet our own requirements.

Senator Connolly: In other words, you are saying that as a result of the agreement, not only has there been an increase in the volume of trade between the United States and Canada in both directions but, in addition to that, it has led to increases in trade with other countries because of the capability that Canada has developed.

Mr. Jackman: I would say unquestionably, senator. Because of the fact that we have access to the U.S. market and it provides that broadened base that is not available within Canada, we are then, as a consequence, able to participate more effectively in bilateral arrangements with our NATO allies and others, working from the strength acquired through our association with the U.S.

Senator McElman: It would then follow that consequent on the standardization of equipment, particularly in the NATO countries with the entry of U.S.-produced goods into the other NATO countries, our parts and components sales to those NATO countries would appreciate very greatly also.

Mr. Jackman: That is correct, senator. To clearly exemplify it, I may cite one example. The F-104, an aircraft of United States origin, which was manufactured under licence in Canada and adopted by many NATO countries, is one item, through the NATO network, for which Canada is providing a very substantial continuing volume of spare parts.

Senator McElman: Will this include the new type of aircraft for which the United States is just gaining the main contracts?

Mr. Jackman: To the extent that Canadian suppliers are producing components or subsystem items for that system, yes; also to the extent that there is a degree of standardization both between Canada and the United States and within NATO.

Senator McElman: Does it appear that our component input to the new type of aircraft will be as great as it has been before?

Mr. Jackman: It varies quite markedly from aircraft to aircraft. It is hard to give a blanket answer which might not be misleading. It depends on the specific aircraft and on the equipment fit of any particular aircraft. Our forte has tended to be in the area of avionics and installed equipment as opposed to airframe items.

The next question was in the area of spillover, or, as we more frequently say, spinoff.

Senator Connolly: That is the Dallas term, is it not?

Mr. Jackman: Yes; I think that is a U.S. phrase that we borrowed. There are some outstanding examples. We have, with the U.S., developed a radio relay system against a U.S. Army requirement which has turned out in the long run to be a world beater in terms of equipment sales to other countries. That is one form of spinoff whereby engaging cooperatively in the development of equipment with the U.S. it has found acceptance elsewhere with other military users.

Another form of spinoff is where an item has been developed against a military requirement which then finds acceptance in the civil market. Gas turbine technology, particularly at the low end of the scale, in small engines, has been an area where we have done very well in Canada. Sonar is another area—sonar and sonobuoys. Flight simulators, where the development of equipment for military utilization, particularly in the field of simulation of helicopters, has given us an advance in technology that we could not have acquired otherwise.

Senator Connolly: What part would organizations like the National Research Council play in that, if any?

Mr. Jackman: A role certainly has been played by the National Research Council. The example that comes to mind immediately is the technology that was developed by the NRC for a tumbling airfoil—this being a sort of falling leaf effect, a fibreglass body which, when dropped from an aircraft, flutters to earth rather than falling like a brick. This technology, developed by NRC, was picked up by a Canadian company who then embodied either a radio transmitter or a recording device in it which could be ejected from an aircraft either before or on impact in a crash situation and fluttered clear of the crash area, and provided a record of the events leading up to the disaster. There have been examples of this sort where NRC technology has been picked up by the private sector and utilized to good advantage.

Your final point, I believe, was dependence. We would prefer to use the word interdependence. Clearly, there are areas where a dependency situation emerges. But our objective, over the course of the program, has been to engender at the industrial level an interchange, an inter-

dependence, of the supply of component parts and participation in subsystem development between Canada and the U.S.

Senator Carter: This is what we might call a unique arrangement. No two other countries have a similar defence-sharing arrangement, do they?

Mr. Jackman: It was unique until very recently. It was, in fact, envied by many. The British and the U.S. have recently entered into a somewhat similar arrangement.

Senator Carter: Is there a termination date on this arrangement? Does it go on forever?

Mr. Jackman: It may be terminated by either party on six months' written notice.

Senator Carter: Obviously it is much more advantageous to Canada than to the United States, would you say?

Mr. Jackman: I do not think that is entirely a fair statement, senator. Possibly it could be demonstrated, because of the imbalance, that we have benefited industrially in the short term. In the long term it is our view—and it is a view shared by our friends in the U.S. Department of Defense—that it has given them access to Canadian capacity as well as to U.S. capacity. It has broadened their base, albeit proportionately less than it has broadened ours, but it has given them a breadth which they would not have achieved in any other way.

Senator Carter: You mentioned the spillover, the effects of that, the spinoff, the new products we have had, and the trade we have developed with other countries because of this. That would not apply to the United States to the same degree. If this were terminated tomorrow, it would hurt Canada an awful lot more than the United States, would it not?

Mr. Jackman: I think that is fair to say. It is a function of size. They have it over us 10 to one. However, I think it is unfair to say that we have been the sole technical beneficiaries. There have been these areas such as the radio equipment which I mentioned earlier, which was developed in Canada against a U.S. Army requirement and which is now being produced also in the U.S. The technology has flowed both ways—although, again, the function of size comes into play and it is clear that most of it has flowed north. For that reason, amongst others, we feel that the program has been extremely valuable to us in maintaining our place in the technological world, which would be extremely difficult and expensive to do by ourselves.

Senator Carter: Are there any irritants in connection with this program? We are concerned in our committee with possible irritants in the relationship between the United States and Canada. We still retain a 10 per cent preferential rate for Canadian firms, do we not?

Mr. Jackman: On a discretionary basis in some areas. Certainly the phrase "trade irritants" was in vogue some time ago, but in recent meetings of the Steering Committee on the Defence Production arrangement between Canada and the U.S., the extent of the irritation seems to have been significantly lessened. It is not a dominating factor at this point in time.

Senator Carter: We do not get too many complaints from the United States?

Mr. Jackman: We have family arguments, but, again, that is normal and healthy. However, we on both sides are not concerned about the imminent demise of the program.

Senator Carter: When you displayed that chart—I think it was the second or third last one that you showed—there was an aircraft . . .

Mr. Jackman: The C-130.

Senator Carter: I could not make it out clearly. You mentioned the name Lockheed in connection with that.

Mr. Jackman: Yes.

Senator Carter: What does that imply? Were they buying stuff from us?

Mr. Jackman: We bought the C-130 aircraft from the Lockheed Georgia Corporation. It is the Hercules in service with the Canadian Forces. Lockheed have also placed work in Canada on a subcontract basis over the years from their many divisions.

Senator Carter: In all these agreements that you mentioned . . .

The Chairman: Senator Carter, for the record, while you are on the subject of the Hercules, while the chart shows Hercules procurement for 1974 only, if I am not mistaken Hercules is a somewhat old aircraft. We have been acquiring Hercules from Lockheed for 15 or 20 years.

Mr. Jackman: Not that long, but certainly for a great many years.

Senator Carter: In all these agreements, going back to 1941, there is nothing in any of them that helps us with our problem with Lockheed today in procurement.

Mr. Jackman: That is a question that is being debated in quite another forum, senator. Yes, there is, in terms of the access which we have to the U.S. market and which they have to ours, but there is nothing that would resolve the specific problem that is being debated elsewhere.

Senator Carter: It would seem logical, especially in the present case where we are willing to purchase military planes to the tune of $1 billion, that they would be able to do something more to facilitate the transaction than they appear to be able to do.

Mr. Jackman: I think we have to accept the fact that $1 billion is a lot of money.

Senator Carter: It is a lot of money to the Americans, too.

The Chairman: Since we got on to the subject of the Orion, and without getting into the area of how the purchase is to be financed, or whether it will be the decision of the government to make the purchase from this particular aircraft manufacturer, one question would be the approximate Canadian component that has been negotiated into that particular contract, and, again, we would be dealing in round figures. I have read figures in the newspapers as high as $500 million or $600 million. Can you comment on that, or is that a very confidential area?

Mr. Jackman: No, but it is beyond my realm of competence. Any figure that I would give you in that respect would be an approximation based on the same press reports that you have seen.

The Chairman: So, the Department of Industry, Trade and Commerce would not negotiate something along those lines?

Mr. Jackman: We participated in the process, but the negotiations were carried out by the LRPA program office, which is the joint long-range patrol aircraft office of the Departments of National Defence and Supply and Services, with the participation of Industry, Trade and Commerce, and others within that office, which tended to attempt, to the extent possible, to operate independently.

The Chairman: Is it your understanding, or is it accurate to say that there is, however, a large Canadian component involved in that purchase?

Mr. Jackman: Yes, indeed. Because of the very magnitude of the purchase, it is apparent that we would want to maximize Canadian participation, and that was one of the elements that was requested when the various competitors were asked to submit proposals.

Senator Connolly: Is it really in accordance with the spirit of the agreement to seek to maximize Canadian content? Is that contemplated by the agreement?

Mr. Jackman: That is the same question we were asked by our American counterparts. The discussion evolved around the question of whether or not a $1 billion peacetime purchase is within the norms that were ever contemplated for this arrangement. We have agreed amongst ourselves that a $1 billion purchase is not a routine purchase and, therefore, would distort the roughness of the balance to the extent where it might not be tolerable. It was therefore accepted by both sides that some extraordinary measures had to be taken to try to improve the Canadian content of a major purchase of that sort, be it from Lockheed, or some other manufacturer.

Senator Macnaughton: And your figures show that.

Mr. Jackman: Yes.

The Chairman: I think it is worthwhile having that on the record, Senator Carter. I interrupted you for that reason, and I apologize.

Mr. Grant: I think the Americans recognized that at the time. They were calling it a $1 billion offshore procurement, which is a very significant purchase, and they were sympathetic to our position.

Mr. Jackman: A fairly indigestible lump.

Senator Carter: In the area of defence procurement, what is the relationship between the Department of National Defence and the Department of Supply and Services?

Mr. Jackman: Both departments participate with us, for example, in the steering committee which meets regularly with the United States officials, and officials of our other allies with whom we have bilateral arrangements, to discuss defence-industrial matters.

Senator Carter: So, there is a joint approach to it.

Mr. Jackman: Yes. Quite logically National Defence, being the department which raises the requirement and utilizes the equipment, and Supply and Services, being the procurement agency involved, act jointly. There is this division in Canada between the utilizing agency and the procurement agency. In the United States, the Defense Department discharges all of the functions involved.

Senator Connolly: I suppose if we did not have this arrangement, we would have to invent it. If we were back in 1939 we would want this type of arrangement, would we not, as part of the promotion of the security of this country. Is that a fair statement?

Mr. Jackman: I think in the context of 1939, it would be most advantageous to have had something like this in place prior to 1939.

The Chairman: Senator Riel.

Senator Riel: Reference has been made to Mexico, and apparently there is no similar arrangement existing between Mexico and the United States.

Mr. Jackman: I am not competent to comment on what arrangements may exist between the United States and Mexico. We do not have a comparable arrangement with Mexico.

Senator Riel: It was mentioned that there is a similar arrangement between the United States and the United Kingdom. Would the United Kingdom be considered a competitor of Canada in this field?

Mr. Jackman: Yes, and this bears on the previous question in respect of exclusivity. We are not bound to shop only in each other's markets. We are free under the agreement to look elsewhere. Logically, for reasons of the integration of our economies and the integration of the defence-industrial base, we tend almost naturally to look to each other first, but not on an exclusive basis. To the extent that others are actively trying to sell their wares in the United States, they would be regarded as competitors.

Senator Riel: Are we aware of the purchases that the United States is making from the United Kingdom?

Mr. Jackman: Not specifically, no. Again, to the best of our understanding, the arrangement which the United States has entered into with the United Kingdom is of a reciprocal nature, somewhat similar to ours, although not geared to specific equipment or specific sectors of industry.

Senator Riel: We don't look upon it as bearing on the same range of equipment?

Mr. Jackman: It would bear on the same range of equipment, certainly. Whether it would bear on an individual radio set, or an individual aircraft component, we could not say. We would only find out after we had lost.

Senator McNamara: Mr. Chairman, the witness said that apart from the United States and the United Kingdom, no other countries had a similar arrangement. Would there not be a similar arrangement amongst the member nations of the European Economic Community?

Mr. Jackman: Not in precise terms such as we have, no. Within NATO, yes, but it then tends to be, as we participate in NATO, on a series of bilateral arrangements, as opposed to a total collective arrangement.

Senator Connolly: The United Kingdom, you say, is just now concluding, or has concluded an agreement with the United States in this field. I do not suppose that is to say that heretofore there has not been some shopping around

by American firms, or subcontracting work in the United Kingdom or, indeed, in other countries.

Mr. Jackman: Indeed, it has been very extensive senator.

Senator Connolly: And there has been considerable supply resulting from that?

Mr. Jackman: Yes. To the extent that it is feasible and possible to foster their sales of equipment in other countries, United States manufacturers attempt to sweeten the pot, as it were, through subcontract level trade, just as they do with us. I think that the agreement between Canada and the United States certainly predates any of these others, and has been cited in studies prepared for the United States and submitted to NATO as an example of one that works, as opposed to several attempts within NATO which have not worked very well.

Senator Connolly: Mr. Chairman, I apologize to the committee for taking so much time. One of the things that we talked about earlier in the proceedings of this committee was whether or not, in the field of information emanating from the embassy in Washington, we are doing enough. Is there anything about this program concerning which we might urge more effort on the part of Canada? For example, you tell us that the amount of trade between the two countries in this field is no more than perhaps one per cent, last year, of the total trade. That is relatively insignificant. However, I believe from what we have heard today that while quantitatively it may be insignificant, qualitatively it is very important. Are there things we should be thinking about that would improve that trade relationship? Perhaps you do not wish to answer that questions; perhaps it is policy.

Mr. Jackman: No, I would be happy to answer the question. I am also open to suggestion, because we are always looking for new and innovative approaches. I can say, within the commercial division of the embassy in Washington, as you phrase it, the quality of the trade is clearly recognized. A great deal of effort is devoted to our work vis-à-vis the headquarters of the U.S. military departments and in our consulates and consulates general. Trade commissioners have clear assignments to pursue the defence and defence related equipment sales, both with military procurement agencies and at the sub contract level with major U.S. defence contractors. As I say, senator, we are always open to suggestion as to any innovative approach we can follow, and we would be very happy to look at it.

Senator Connolly: Do you see any holes in the approach? Do you see any things which should be done? We might help you by recommending.

Senator Macnaughton: In the past, Mr. Chairman, on many trips to Washington, for example, we have tried both on the record and off the record to influence American legislators to do certain things, to persuade them that we were anxious to get contracts, and that they should have pilot plants up here, north of the border, and not concentrate everything in the south, et cetera. You know the arguments, and we have had considerable success.

Mr. Jackman: These arguments have been built into the fabric of the program. One of the lines in an early slide (slide 2) demonstrated that an advantage, as we see it and as it is seen by the U.S. Defense Department, is dispersal of the industrial base, a wider geographic dispersion of the sources available to the defence establishments of both countries.

Senator Rowe: You are thinking in terms of strategy?

Mr. Jackman: Yes, and in terms of the regional distribution of sources of supply for economic as well as strategic reasons.

Senator Riel: I asked a question with reference to competitors. Do we have any idea of what our position is with reference to competition? A question has been asked about Mexico, and now we are talking about Great Britain. We have a great deal of competition with the United States itself. Senator Connolly was asking what more can we do. I believe that before we can start to be a salesman we have to know what our competition is outside the United States, and also, of course, in the United States. I would imagine this is followed very closely by the department.

Mr. Jackman: It is followed very closely, indeed, senator. As I mentioned earlier, working through the commercial divisions of our consulates in the U.S.; we do the same thing abroad. Within the Canadian delegation to NATO, we are monitoring on a continuous basis the activities in the defence industrial areas of the NATO countries.

We have a regularly established procedure for meeting with them at least twice a year. In the capitals of our various potential competitor countries, we are exchanging information on a regular basis, and in some cases through a series of bilateral arrangements under memoranda of understanding between Canada and the other country. In some cases, it is done on a somewhat less formal basis.

We do attempt, to the extent feasible—you must realize this is a somewhat extensive area—to keep abreast of not only the requirements as they may represent opportunity for Canadian sales but also of equipment developments as they may represent competition for Canadian products in those and other markets.

Mr. Grant: I might also add that our biggest competition is the number of U.S. companies. In fact, even when we compete on some of the NATO programs we often find the strongest competition is from the U.S. In a recent case, on a NATO telecommunications requirement, two companies were U.S. and one was Canadian. We happened to win out on this one. Often there is no stronger competition than from firms in the United States.

Senator McElman: Mr. Chairman, I would like to focus on a specific area where Canada has high competence but does not appear to be selling, and that is shipbuilding. Is it excluded from the agreement, or why are we not into it?

Mr. Jackman: It is not excluded per se in our agreement with the U.S. There is, however, restricted legislation in the U.S. which makes it extremely difficult to sell foreign built ships into the U.S. market. The principal problem which we encounter in attempting to sell the products of Canadian yards abroad is over capacity elsewhere and an attitude such as we have here of trying first to ensure that local yards are kept loaded on a relatively continuous basis. The shipbuilding area is an exceptionally difficult one. It is one to which we have devoted a great deal of time but it is one where international competition is fierce, to say the least.

Senator McElman: In this case, as we have our 10 per cent advantage, they also have their own advantages for shipbuilding.

Mr. Jackman: One way or the other.

Senator Riel: You have spoken of the distribution of these contracts, strategically or otherwise. With reference to the contracts which we have executed or have performed in this country, have you any idea as to how they are distributed originally in this country?

Mr. Jackman: They do not differ widely from the regional distribution of the secondary manufacturing industry generally. They predominate in Quebec and in Ontario with some concentration in the Maritimes and some on the West Coast and a very few spread across the centre of the country. There are areas where you will find a few firms with highly specialized products that are selling well abroad. Some of them come out of the Winnipeg area, for example. However, predominantly they are in the Quebec and Ontario area.

Senator Riel: Do we have an alternative for this kind of equipment we are selling to the United States? Are we selling to other markets?

Mr. Jackman: Yes, senator, and I attempted to answer this when I spoke to Senator Connolly's question. We do not find ourselves bound to the U. S. There is an interdependency situation which emerges but the statistics which we showed to you earlier I believe demonstrate while, again, the U. S. on a ratio of about two to one, is certainly our largest customer. We are making every effort to sell to acceptable customers abroad as well and we are doing this on a reasonably successful basis at this time.

Senator Riel: Someone mentioned Brazil, and I believe South America is one of our important markets in this field.

Mr. Jackman: For some equipment it is, particularly in the transportation and communication areas.

Senator Rowe: I would like to ask a supplementary question dealing with the subject matter raised by Senator Riel, about regional distribution. I suppose that is something over which we have very little control. A lot of this sophisticated equipment can only be made by one or two firms in Canada and they are almost inevitably centralized in Ontario and/or Quebec.

Mr. Jackman: That tends to be the case, senator, with certain specific exceptions because the firm is located elsewhere and that is where the item is produced.

Senator Rowe: No one could allege discrimination.

Mr. Jackman: No.

Senator McElman: Radio Engineering, for example, was a very heavy supplier in the field of telephone equipment.

Mr. Jackman: Yes, to the U. S., principally.

Senator Riel: You have expressed satisfaction at the ratio of our contracts vis-à-vis the one we are giving to the United States.

Mr. Jackman: I think it would be hard to accuse me of being satisfied. We have an Oliver Twist complex; we always want more.

Senator Macnaughton: I was very interested, Mr. Chairman, in the witness' "family arguments." It is very understandable when you are dealing in terms of one-to-ten in strenght that you would have rapid discussions, but I suppose really you act as referees for the highly competitive situations between Canadian and American firms after the same contract.

Mr. Jackman: "Referee" might not be the proper phrase; perhaps linesman, and every once in a while we call an offside. We try to make sure that the rules are adhered to.

Senator Macnaughton: That we do not get hurt too much by the massive attack from the other side.

Mr. Jackman: That is correct.

Senator Macnaughton: Does the United States government grant financial assistance for research to Canadian companies in Canada? I understood you to say that indirectly they do.

Mr. Jackman: And directly to the extent that they participate with us in joint developments of equipment in Canada, and they have from time to time funded developments of equipment in Canadian facilities.

Senator Macnaughton: Sharing technical developments and funding them, as you say?

Mr. Jackman: Correct.

Senator Macnaughton: And is considerable research done by Canadian companies for the American government?

Mr. Jackman: Yes, there have been significant programs of research and development in Canada against U.S. military requirements.

Senator Macnaughton: In competing with American firms, is it possible for the Canadian government to help Canadian companies?

Mr. Jackman: We help them in every way we can.

Senator Macnaughton: I know it is a general question and I know it is a difficult question to answer, but I suppose one could say that you support your team.

Mr. Jackman: Correct, But don't forget they have their linesmen too.

Senator Macnaughton: What steps would you take, for example, to acquaint U.S. firms of the potential of Canadian concerns?

Mr. Jackman: Well, as mentioned in response to Senator Connolly, the network of trade commissioners working out of our consulates and consulates general are active in calling on U.S. prime contractors and we also encourage Canadian industrialists to do this for themselves. There is no substitute for calling on the customer personally. We do everything we can to encourage them to get on the ground and to make themselves and their products known to the U.S. buyer, and to the extent that our people in the field can work to facilitate this contact, we do that.

Senator Macnaughton: I assume that inside Canada you have your inspectors—in other words, that you keep a very watchful eye on what Canadian manufacturers and subcontractors and all the rest are doing, and that they are regularly under observation by Canadian government officials to see that quality is kept up.

Mr. Jackman: On the question of quality, we do have reciprocal arrangements with the United States and in most instances if the U.S. is buying a military component in Canada, it would be inspected as though it were being purchased by Canadian Forces and we get the reciprocal of that. When we are buying in the United States, it is inspected on our behalf by competent United States authorities. That is one facet of the program which is beneficial to us both. We do not have inspectors racing back and forth across the continent. We are able to use each other's on a complete reciprocal basis.

Senator Macnaughton: It seems to me that, speaking quite broadly, without this active program on the part of any Canadian government, Canadian secondary industry would be very hard put.

Mr. Jackman: Some sectors of it would have difficulty without admission to the United States military market.

Senator Macnaughton: As a result of this program you have been able to help them build up a great deal of good Canadian technological secondary industry.

Mr. Jackman: I think, as we stated earlier, senator, that one of the objectives of the objectives of the program was to ensure that we maintain that technology base in Canada.

Senator Connolly: If you would allow a supplementary on that, Senator Macnaughton, I think it is rather important to say too that it is the private sector that has made this kind of program go. The private sector has produced the input, the capital and the skills that make this kind of secondary industry a real and living thing in Canada.

Mr. Jackman: The private sector is unquestionably the essential ingredient, and one of the points of pride to us is the degree to which industry to industry relationships have been established within the program as between Canadian and U.S. firms.

Senator Connolly: I think that is a fairly important point, Mr. Chairman.

Senator McElman: But there is a corollary to that, and that is that it would not have happened were it not for the initial agreement between governments to make it possible.

Senator Connolly: In other words, the government makes the conditions possible, and then you have private industry and private initiative taking advantage of the opportunity that government provides.

Senator Macnaughton: I could put a cap on that question by saying that a great deal of this original purpose started with the Honourable C.D. Howe and was developed actively by his chosen assistants throughout the years.

Mr. Jackman: He was my first minister when I joined the federal public service in 1951.

Senator Macnaughton: This question that I am about to ask may sound somewhat silly. Sweden, with half the population of Canada, produces fighter aircraft, tanks and military equipment of all sorts and sizes. Do you think we should do the same?

Mr. Jackman: I don't think we have to. Because of arrangements such as those which we have with the United States, we are not put to the not inconsiderable expense that the Swedes are to maintain the total spectrum of defence industrial capacity. We can select out those areas which we do best and most competitively.

Senator Rowe: I was interested to hear you say that we don't make tanks. I would have arrived at that conclusion myself. I was not a Canadian in 1940, so I don't know this. Did we ever make tanks?

Mr. Jackman: I believe tanks were produced in Canada during World War II.

Senator Rowe: And then you spoke about aircraft. We produced quite a lot of aircraft during World War II as well. Were not some of those fighter aircraft of one kind or another?

Mr. Jackman: That is right.

Senator Macnaughton: But I am dealing with the situation as of today. What would happen if this agreement were to terminate?

Mr. Jackman: It is difficult to speculate.

Senator Macnaughton: Well, what would happen to unemployment and to exports to the United States? In fact I think the question answers itself.

Mr. Jackman: We could see quite clearly a shift, first, of course, in the subcontract area where because of the duty-free entry and relief from the Buy American Act that we enjoy, this market would no longer be available to Canadians at the component and sub-system level. That would be the first effect. In terms of major equipment, while continuing to produce total equipment for our own requirements, we would continue to shop the United States and elsewhere but the reverse flow would be effective first, and the first to be affected would be the component and sub-system suppliers.

Senator Macnaughton: Which, in other words, would simply eliminate a certain section of Canadian secondary industry?

Mr. Jackman: It would put some firms in a very precarious position, if not put them out of business altogether.

Senator McElman: Mr. Chairman, the committee has been increasingly concerned with three factors affecting, we believe, our competitiveness—the exchange rate in which currently we are above the United States; the falling rate of productivity of the Canadian worker vis-à-vis the American worker; and the rapid increase in hourly wages in Canada, which is much faster than is the case in the U.S. I note that in the machinery sector for the period January-September 1975 we had reached 104.5 in hourly wages vis-à-vis the U.S. worker, which is something with which we are very much concerned here now. In the electrical sector we have reached 102.2. Your charts showed that for 1972 and 1973 we were up in the $300 million area, and for 1974 we were in the $220 million area. For 1975 I believe you said it appeared to be following the same trend.

Mr. Bennett: It was $280 million in 1974.

Senator McElman: Could you comment on whether you have any information or educated views?

Mr. Jackman: Our educated guess is that 1975 will be approximately the same, about $280 million.

Senator McElman: Do you foresee any real problems in this defence-sharing program from the changing position of our competitiveness vis-à-vis the U.S?

Mr. Jackman: In my opinion, the only comment, senator, that I could make in that regard is that it has always been an intensely competitive market and any factors which would lessen our competitiveness would be brought to bear here, as they are elsewhere and would make it that much more difficult to sell. It is not a market, again, in which we have any exclusivity. We are competing with similar forms in the U.S. If we are competing for a component or subsystem requirement, we must be better in terms of price, quality and delivery.

Senator McElman: And, as you have indicated, the shopping about goes on particularly in the component field.

Mr. Jackman: That is correct, sir.

Senator McElman: And this will become an increasingly difficult problem for us, I should think.

Mr. Jackman: One factor which works to our advantage, if it is an advantage, is the tendency that firms have to establish patterns of procurement. Over the years procurement patterns have been established which lead U.S. manufacturers to shop Canadian as well as shopping American. If, as you suggest, factors at play in Canada push our prices up that will be one of the factors that works against us. However, there are, again, those factors of quality and delivery. If we are producing a specialty and are good at it, a penny or two might not make a difference but then again it might. Determining which way it will go is a very difficult matter of judgment.

Senator Carter: Does the agreement allow Canada to manufacture under licence a piece of equipment for military use?

Mr. Jackman: Yes, Mr. Chairman; a great deal of military equipment is manufactured under licence in Canada. That is one of the features of the arrangement which provides for ease of licensing in both directions.

Senator McElman: Mr. Chairman, the witness has been around for a great deal of time in this area. Perhaps he could go back to earlier times and explain to us how the U.S. came to agree that we could maintain a 10 per cent ratio for purchases within our own country. Was there a trade-off of some nature?

Mr. Jackman: Not a specific trade-off, senator. Bear in mind that that 10 per cent difference which can be applied on a discretionary basis for purchases in Canada, or for the Canadian content of purchases, is only one factor in the evaluation process. On the U.S. side, where we have relief from duty and the Buy American Act, there are other factors which enter into the total evaluation process, such as I think was demonstrated earlier, small business set-asides, labour surplus area set-asides and other administrative and legislative features of their procurement program which tend to, in the long term, and on a rough balance basis cancel each other out.

Senator McElman: We have been hearing about this as an irritant of lesser or greater weight. Is there something on the other side of the coin that we are suggesting to the United States that they might pull back from?

Mr. Jackman: It is in the area of what I might refer to as technical adjustment to the program. From time to time we on either side make minor adjustments, the inclusion of different classes and kinds of equipment within the program for duty-free or "Buy American" treatment on the U.S. side. There is the adjustment of the level of duty-free entry on the Canadian side. Certainly there has been a protracted debate with respect to the so-called "buy Canadian" clause. The 10 per cent discretionary preference you mentioned thus far has been retained as a counterbalancing force to some of the other protective devices on the U.S. side and to ensure that at the lower end of the spectrum there is no undue damage done in terms of the disparity in size and economic power between the firms competing on both sides of the border. It does remain an item which is periodically examined by our steering committee when it meets. It is one which we assume we will continue to debate.

Senator McElman: But at this moment it is not an active negotiating item as between the two countries.

Mr. Jackman: It is not what may be termed a major irritant, no, senator.

Senator Cameron: Mr. Chairman, could Mr. Jackman give us some information as to the future of the Auto Pact, or is this an appropriate time to raise a question of that type?

Mr. Jackman: I do not believe, senator, that I can competently answer that question. There is a degree of similarity between the two programs, but no direct interrelationship and I would not care to comment on the long-term future of any program in which I am not actively engaged.

The Chairman: Honourable senators, I have come to the end of my list of members of the committee who wish to ask questions. I have one or two of my own, for which I might delay the committee while I ask them of the witness. Hopefully we could then allow our guests to leave by 5.30.

Mr. Jackman, the area I would like you to develop a little for me is this: You have made it quite clear in your evidence that we here have a section of the Canadian economy involving some $300 million worth of production for export alone in a very desirable area of high technology, high labour content and highly-skilled content. You have mentioned that it has come about because of this agreement, which has eliminated duty in both directions on these particular items. It has eliminated such things as the "Buy American" provision, and the result has been an approximate balance in trade in these items, high technology and a desirable, or at least what I consider to be a desirable rationalization. In other words, a situation in which we are not endeavouring to produce one of everything in Canada but are producing for a larger North American market those items which we can produce best to arrive at this balance in trade. All of what I have just said leads to a strong argument for free trade between Canada and the United States in certain areas. I should like you to develop for us what other things you do under this agreement to bring about this balance, other than just removing the duty, avoiding the "Buy American" as a rationalization of the industry. What forces do you bring to bear under the agreement in your administration of the agreement to make this particular small area of free trade work so perfectly?

Mr. Jackman: Senator, it is nice to hear you say that we brought it about. I think perhaps we have fostered an area of co-operation between Canada and the U.S. I am not sure we brought it about from scratch. But as it relates to

a relatively free trade area and what we do to ensure that it persists, as we mentioned, there are periodic meetings at a senior official level of a steering committee which tends to examine technical problems which might arise from time to time, and ensures that they are resolved before they become, as the media are prone to suggest, "irritants".

Underlying the end result, that is the procurements back and forth at both the prime and sub-contract level, is the whole area of research and development, and working within the structure of the arrangement and the overall steering committee which meets about annually there are a number, at lower levels, of official and semi-official committees, which meet to ensure that the R & D activities in the defence sectors of both countries are integrated to the extent possible; and certainly to the extent that a firm, be it in Canada or the U.S., engages in the development of an equipment, it is that much further ahead when it comes to proposing on the supply of it at the end of the day.

It is very difficult for someone to pick up a specification and then, 21 working days later, submit a proposal which presupposes that he has complete technical background and knowledge of what will ultimately produce an equipment that he has never seen before. Whereas, if he has for the last several years been actively engaged, if even only on a portion of the development program, he has a technological advantage, unquestionably.

The Chairman: My question goes a little deeper than that, though, because a high percentage of this trade is company to company, subcontractor to subcontractor, so it is in the private sector, as Senator Connolly has pointed out. The climate has been created by government and now we have this excellent trade in substantial dollar figures operating on a rationalized basis in North America. Does it at times start to come out of that approximate balance?

Mr. Jackman: Yes.

The Chairman: Then what do you do to get it back into approximate balance? Do you dictate to somebody in the United States, saying, "You must now buy some Canadian components because we are getting out of balance"?

Mr. Jackman: No.

The Chairman: How is that accomplished?

Mr. Jackman: We have attempted to avoid directed procurements. When it becomes apparent, as it does from time to time, that in one sector or another, or in the overall, we are deviating a little too far from the mid line, we jointly will decide that perhaps it is time for an examination of what is happening, a closer look at some of the requirements on either side of the border, to make sure that a firm on one side or the other of the border does in fact seek equipment supply from a producer in Canada or in the United States. We tend to, through stimulation of the process, ensure that there is an active shopping on both sides of the border, as opposed to providing direction that "thou shalt." Rather than say "thou shalt", we say "thou should."

The Chairman: So you do act as an honest broker to try to keep the thing in reasonable balance?

Mr. Jackman: We monitor it as closely as possible and try to direct rather than . . .

The Chairman: You encourage.

Mr. Jackman: Yes—rather than insist.

The Chairman: I was interested in this aspect for two reasons, firstly, because of the nature of the trade that has developed, and also because of the fact that this agreement specifies that there should be an approximate balance in the long term, which is unlike, if I am correct, the Auto Pact, which does not specify a balance, although it is thought by some that we should achieve a reasonable balance under it.

Senator McElman: Why do you not make it totally contemporary? We are looking at five years on Lockheed if we sign the agreement—or four years to delivery. That means that $250 million a year on the deficit side for us. How would you go about attempting to balance that out?

Mr. Jackman: Without getting into specifics, because I do not have precise knowledge of the extent of undertakings by Lockheed for purchases in Canada, certainly there would be a component of that program, and also other work eminating from Lockheed Corporation placed in Canada, as well as the advantage which we already enjoy, which would be eroded away over that period. So that hopefully at the end of the day we would be not far from balance. The pendulum might swing to the other side, but this would be only mildly distressing having enjoyed those years when the pendulum was on the other side. It is that roughness of the balance which in the long term has become a part of the program and acceptable to both sides.

Senator McElman: I would have thought that during that period you would be saying, "Thou should" a great deal.

Mr. Jackman: During that period there would be some squeaky wheels around and we would be delighted if they got a little grease. But I do not think there would be undue arm-twisting. We would certainly be accused of it.

Senator Connolly: But we must be assured at all times, if we are going to pull an order for Canadian industry in a contract like this, that the capability to produce is there.

Mr. Jackman: That is correct, senator.

Senator Connolly: He must always have an assurance that the production will meet the standard and all the other tests.

The Chairman: To add a little arithmetic to the record, to Senator McElman's point a moment ago, if—it is pure supposition—the purchase price of the patrol aircraft was $900 million, and if the Canadian component was half of that, which would be $450 million back, we would have a favourable balance over the life of the agreement of around $300 million.

Mr. Jackman: At this time about, $300 million.

The Chairman: With $450 million, that would be $750 million. So over a four-year period it is conceivable that it would not get too badly out of whack even with such a huge order. That order, by the same token, will almost double, over a four- or five-year period, the gross dollar trade under your agreement.

Mr. Jackman: There will be a jump in those cumulative totals that were demonstrated.

The Chairman: They will go from $300 million to $500 million or $600 million.

Senator Connolly: We might grow from one to two per cent of the total U.S.-Canada trade.

Mr. Jackman: In a short period.

The Chairman: Which might create a new base from which you would tend to work in the future.

Mr. Grant: Mr. Chairman, may I add that we have already told our American friends that we will be after them for more business.

Mr. Jackman: We have powerful motivation.

The Chairman: I have one remaining question. Coming back to the U.S.-United Kingdom agreement, have you given much thought to a Canada-United Kingdom agreement so that this could become a true triangle, and not only would the United States be getting the benefit of two agreements but we in turn might find ourselves putting Canadian components into American items being sold to England under their agreement, or Canadian components into the English items being sold to the Americans under their agreement?

Mr. Jackman: Mr. Chairman, that is happening now. Both within NATO and, to a minor extent outside it, we have a whole series of bilateral arrangements with other countries which, though not to the extent that they do as between Canada and the United States, provide for the exchange of requirements information. There is a real attempt on the parts both of Canada and our partners to use each other's expertise and to accept quite readily, for example, a Canadian component in a piece of United States equipment that is sold to Italy, embodied in an Italian system, and sold to Germany. That sort of thing goes on quite regularly.

The Chairman: Thank you.

Senator Rowe: This is probably a stupid question, but a lot of the things we have talked about today, it seems to me, would involve a great deal of activity that would be "classified" in the American sense of the word. If you do not want to comment on this, Mr. Jackman, it is quite all right, but have we seen the whole iceberg today on these charts?

Mr. Jackman: You have seen its shape and form, you have been exposed to its total size, but you just have not seen into some of its facets.

Senator Rowe: To use an extreme case, under this agreement would it be possible, for example, for Canada and the United States, jointly or individually, to carry on an operation such as the CIA carried on in respect of the Russian submarine where, so they say, $300 million was spent, and the United States Congress did not even know about it?

Mr. Jackman: I would suggest that that would be impossible under this arrangement, in that we do report to each other, and these reports are made public in terms of the extent of spending, and the extent of spending in sectors, in various countries. No, senator. To find an element of that magnitude buried in those numbers would be impossible.

The Chairman: Honourable senators, if there are no further questions I will thank our witnesses on your behalf, and thank Mr. Jackman particularly for the very frank, forthright and helpful manner in which he made his original presentation and gave his answers to all your questions.

The committee adjourned.

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Croll	Sparrow
Hastings	Yuzyk

Ex Officio Members: Flynn and Perrault.

(Quorum 5)

Order of Reference

Extract from the Minutes of Proceedings of the Senate, Wednesday, November 6, 1974:

"Pursuant to the Order of the Day, the Senate resumed the debate on the motion of the Honourable Senator van Roggen, seconded by the Honourable Senator Riel:

That the Standing Senate Committee on Foreign Affairs be authorized to examine and report upon Canadian relations with the United States;

That the Committee be empowered to engage the services of such counsel and technical, clerical and other personnel as may be required for the purpose of the said examination, at such rates of remuneration and reimbursement as the Committee may determine, and to compensate witnesses by reimbursement of travelling and living expenses, if required, in such amount as the Committee may determine;

That the papers and evidence received and taken on the subject in the preceding session be referred to the Committee; and

That the Committee have power to sit during adjournments of the Senate.

After debate, and—
The question being put of the motion, it was—
Resolved in the affirmative."

Robert Fortier,

Clerk of the Senate.

Minutes of Proceedings

Thursday, April 8, 1976.

Pursuant to adjournment and notice, the Standing Senate Committee on Foreign Affairs met at 9:30 a.m. this day.

Present: The Honourable Senators van Roggen (*Chairman*), Cameron, Connolly (*Ottawa-West*), Croll Flynn, Lafond, Laird, MacNaughton, McElman, McNamara and Sparrow. (12)

Present but not of the Committee: The Honourable Senators Riel and Smith (*Queens-Shelburne*).

In attendance: Mrs. Carol Seaborn, Special Assistant to the Committee; Messrs. Bill Neil and Robert Robichaud, from the Library of Parliament, Research Assistants to the Committee; *AND* Mr. Victor L. Van Der Hout, Chairman; and Mr. T. D. Millar, Executive Assistant, both of the Automotive Parts Manufacturers' Association of Canada.

The Committee continued its study of Canadian Relations with the United States.

Witnesses: Mr. Patrick J. Lavelle, President, of the Automotive Parts Manufacturers' Association of Canada.

The witness tabled a document entitled "A Time for Change—The Auto Pact".

That document was identified as "*Exhibit No. 2*" and made part of the Committee's records.

Agreed, that a document entitled "Performance under the Auto Pact: An Ontario Perspective" which was supplementary to the recent budget of the Province of Ontario, as referred to by the witness, be circulated to members of the Committee; and that the document be identified as "*Exhibit No. 3*" and made part of the Committee's records.

At 11:38 a.m. the Committee adjourned to the call of the Chairman.

ATTEST:

E. W. Innes,
Clerk of the Committee

The Standing Senate Committee on Foreign Affairs

Evidence

Ottawa, Thursday, April 8, 1976.

The Standing Senate Committee on Foreign Affairs met this day at 9.30 a.m. to examine Canadian relations with the United States.

Senator George van Roggen (*Chairman*) in the Chair.

The Chairman: We are continuing to deal with the Auto Pact this morning, and we shall be getting the views of industry rather than the department relative particularly to auto parts.

Our witness this morning is Mr. Patrick Lavelle, President of the Automotive Parts Manufacturers' Association of Canada.

As president of the association of a very important industry, which is showing serious decline in exports, Mr. Lavelle has been active in presenting publicly the industry's viewpoint to many audiences in Canada and has also made a submission to the U.S. International Trade Commission hearings on the Auto Pact.

Before becoming president of the association in 1974, he was Director of Marketing and Sales for Consumers Glass Company. He has a good knowledge of the Ottawa scene, having worked as Executive Assistant to the Honourable Allan MacEachen from 1963 to 1968. He served on the Federal-Provincial Tripartite Committee on the Automotive Industry. He was also Executive Assistant to Senator Connolly when Senator Connolly was Leader of the Government in the Senate.

With Mr. Lavelle today are Mr. Van Der Hout, the Chairman of the Board of the Automotive Parts Manufacturers' Association of Canada, and Mr. Millar, Executive Assistant to the Automotive Parts Manufacturers' Association.

Senator Laird has agreed to lead off the questioning today, but I would first ask Mr. Lavelle to make a presentation to the committee.

Mr. Patrick J. Lavelle, President, Automotive Parts Manufacturers' Association of Canada: Thank you very much, Mr. Chairman. Senator Laird, I will be as brief as I possibly can in my statement, and then we can get on to the questioning. First, I am delighted to be back in the Senate after being away for five or six years. I must say, I would much rather be working in the Senate than having to answer some of the questions, which I know you are going to pose, on the Canada-U.S. automotive agreement.

Briefly, let me introduce my association. It is the Automotive Parts Manufacturers' Association of Canada. It represents about 220 independent manufacturers of automotive parts for both the original equipment market and the after market.

Most of the original equipment that we produce in our plants in Canada, most of them located in Ontario, are shipped to the United States. The after market, of course, is strictly a Canadian industry.

I have read with interest, senators, the sessions you have conducted with Mr. Burns and Mr. Arthur of the Department of Industry, Trade and Commerce, and I would be less than candid if I did not say how penetrating your questions were to them. I would also have to admit that Messrs. Arthur and Burns, as I well know, can prove to be pretty elusive targets.

Senators will have received by now a copy of a submission the association and its directors made to the Honourable Don Jamieson on March 31. That submission concentrates on a number of areas which are of vital concern to the Canadian independent automotive parts industry. It was an attempt on our part to put the vital pieces of the automotive agreement puzzle together, as we see them.

The matters mentioned in the brief deal with investment, employment, productivity, research and development, and many other areas of concern. In each case, the story we tell demonstrates the serious state of the Canadian industry, which flies in the face of various antagonists in the United States who profess the opposite view.

We welcome your inquiry into the state of Canada-U.S. economic relations. Surely, there is no area which is of such importance and which is bathed in such myths as the trading relations between our two countries. I think it was the American ambassador who recently said that Canada-U.S. relations cannot be based on a zero-sum game. We agree, but that is precisely the game we are playing at the present time.

To discuss revising the automotive agreement in either Ottawa or Washington, as we have done, is to pose the question: What are we prepared to give up to get a better deal, or are we prepared to do to get a worse deal than we already have?

Surely that is the zero-sum game, and it is played with deftness on both sides of the border.

We clearly need a new apparatus to maintain viable and open communications with our largest trading partner. At this point, it would seem that we are reluctant to raise certain issues. We tend to underrate our strengths and overstate our weaknesses in dealing with the United States. This comes about, in my opinion, because critical issues are only dealt with when they become critical and at a level where all the facts are unknown. Some form of continuing consultation would surely eliminate these surprises and minor irritations. Some form of consultation must be maintained on a regular basis, if we are to avoid this situation in the future.

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In reading the testimony of Messrs. Arthur and Burns, there is clearly no need for me to cover old ground. Suffice it to say at the outset that the Canada-U.S. auto trade agreement was a worthwhile concept. It was mutually beneficial for a number of years, but did not have the flexibility to adapt to changing economic conditions in either country.

The Department of Industry, Trade and Commerce has pointed out the tremendous gains which were achieved in the Canadian parts and vehicle assembly industries following 1965. We, as an industry, have never attempted to deny these gains; rather, we have attempted to place them in the proper context.

The United States shared those gains in employment through increased efficiency in its vehicle assembly industry through rationalization and the elimination of duty on original equipment parts imported into the country. The parts industry in the United States dramatically increased its penetration of the Canadian market to the point where it is now providing in excess of 90 per cent of the parts used in the Canadian industry.

Employment was actually growing faster in the Canadian parts industry before the Auto Pact was signed, and while employment increased by some 15,000 jobs by 1973, figures show that Canada has far less jobs than it should have received under the "fair share" provisions of the agreement.

If one assumes, in relation to the parts industry, that production should equal consumption, because Canada consumes 12 per cent of total parts manufactured in North America and only produces 6 per cent of them, the gap is almost the same as it was ten years ago. If that gap were closed, $1 billion in parts business, and in excess of 20,000 jobs, would accrue to Canada.

While not agreeing with the figures, the Department of Industry, Trade and Commerce acknowledged the production-to-consumption gap in the parts area as one which is cause for concern. We agree, and have simply tried to quantify the burden this gap places on the Canadian industry.

In general, the low level of vehicle sales in the United States in 1974 and 1975 has been cited as the principal reason for the Canadian automotive trade deficit. I will address myself to that in a moment.

First, I should like to point out that in the 10 years since the agreement was signed, the parts industry has never had a surplus, and the total deficit has reached in excess of $13 billion. In overall automotive trade, because of the surpluses in finished vehicles shipped to the United States, the deficit is about half of that, or $6 billion. In recent years, that deficit has grown tremendously from $1 billion in 1974 to $1.9 billion in 1975. There is no question that the soft market in the United States for vehicles caused a portion of the deficit. However, the return of a buoyant vehicle demand in the United States has not had the effect of reducing the trade deficit in parts, according to the preliminary figures for the first two months of 1976. In fact, the deficit in parts has increased, while the overall deficit has improved markedly. We have projected that the parts deficit in 1976 will come very close to the $2.4 billion dollar figure which was registered in 1975.

We do not wish to engage in a lengthy debate on the issue of the Auto Pact with the Government of Canada. We agree wholeheartedly with the concept of a North American automotive and automotive parts market, provided that Canadian aspects of that market are recognized and that the benefits of such an agreement accrue equally to both countries.

Trade with the United States without some form of safeguard based on market share or consumption would render the parts industry vulnerable to the same fate as other industries which operate in a so-called free trade area with the United States. The Canadian parts industry has been without protection thus far in that sense, and the trends have now become apparent.

Economic conditions in Canada—the absence of the dollar differential and higher wages—have left Canadian manufacturers competing with manufacturers in the United States who have the benefit of longer, more economic production runs, and who relate to purchasing agents located in Detroit.

Mr. McKeough, Treasurer of the Province of Ontario, in his budget speech of Tuesday evening last, referred to the allocation problem as one of the areas in the automotive agreement which should be reviewed. Further, he stated his concern for, and I quote:

> (1) the lack of momentum in productivity growth in the industry;
>
> (2) the allocation of activity in auto assembly between the two countries;
>
> (3) the share of the North American market held by Canadian parts manufacturers.

In discussing the growing parts deficit, Mr. McKeough stated, and I paraphrase: Canadian producers lost substantial ground in the North American parts market. In the first half of 1975, the value of parts production in Canada had declined to 55 per cent of domestic consumption.

Part of the cause lies in the extreme dependence of Canadian parts producers on the U.S. market. While auto shipments held up relatively well in Canada, the assembly slowdown in the U.S. has contributed to the imbalance in the allocation of parts activity. The impact of this phenomenom is seen in the significant increase in the trade deficit.

However, shifting assembly production patterns are not the sole cause of the dramatic increase in the parts trade deficit. Imports of parts to Canada continued to rise in 1975 despite weakness in Canadian assembly. Canadian parts exports have declined at a faster rate than either U.S. assembly activity or U.S. parts shipments. Quite clearly, Canadian producer access to the U.S. market has been reduced in recent years, while U.S. parts producers have continued to expand their shipments to the Canadian market.

Mr. McKeough went on to state the following reasons for that shift:

> —few new parts plants have been located in Canada and some established ones have been shifted to the United States;
>
> —production of major technologically advanced and growth-oriented components has been allocated to plants in the United States;

—the assembly companies have concentrated their purchasing function in Detroit where parts producers have had to concentrate their marketing;

—there is a shortage of innovation and technology in the Canadian industry;

—a decrease in cost-competitiveness of the Canadian industry and an increase in competition from third-country producers; and

—an increasing use of out-of-plant parts in the assembly process in Canadian facilities.

I commend Mr. McKeough's report on the automotive agreement to all honourable senators. With the exception of David Emerson's auto industry study for the Economic Council of Canada, which was produced last year, it is by far the most comprehensive and objective look at the Canadian vehicle and parts industry since Carl Beigie's book of 1970.

Mr. Beigie, whom I note appeared before this committee recently, does not share either Mr. McKeough's or my assessment of the present state of the Canadian vehicle industry. He does admit, however, that something is wrong and that some adjustments need to be made—that, at least, is what I deduced from his very learned testimony before your committee.

Before closing, I should point out that Mr. Jamieson, the Minister of Industry, Trade and Commerce, has listened to us on a number of occasions—most recently on March 31 last, and honourable senators have been provided with a copy of the submission we made at that time. He has taken great time and effort to study the automotive question, and we have great confidence in his determination to make changes, if the time is right and the opportunity presents itself.

Mr. Jamieson is charged with the big picture while we in the automotive parts industry speak for a particular interest group. Nevertheless, he has agreed with some of our statements. I do not think I would be shedding any secrets if I stated that he agrees with us concerning some of the problems the Canadian parts industry is facing under the auto agreement. He has offered to continue to meet with us in order to seek a solution beneficial to all parties involved.

Where we constantly run into trouble, however, is in convincing the various long-time civil servants, those who were involved in the original negotiations—and according to my number, there are thousands of them! —that the time has come for change. We are also hopefuly that your committee will provide the impetus for dramatic changes in our bilateral trading relations with the United States.

Thank you very much, honourable senators.

Senator Cameron: You just made the statement that there are thousands of civil servants involved in this.

Mr. Lavelle: I was being facetious. It seems that every time we walk into a government office there are people who say they negotiated the agreement! We cannot find the real people who will take full responsibility for it, however.

The Chairman: Or credit.

Mr. Lavelle: Or credit.

The Chairman: Thank you, Mr. Lavelle, for that concise opening statement. We will now start the questioning off with Senator Laird.

Senator Laird: Mr. Lavelle, I do not discount the ramifications of your problem, but I am going to suggest certain salient points of a general nature and get your answer, and then, of course, leave you to the tender mercies of my colleagues to deal with perhaps more detail.

The problem you face, put shortly, is that under the Auto Pact everything has, subject to some ups and downs, gone reasonably well with the assembly of motor vehicles in Canada, but the situation is quite otherwise with the parts manufacturers. Is that not the main thrust of your contention?

Mr. Lavelle: I would agree with that. I would elaborate it with just one point. I think that in the early years after the signing of the agreement both industries were doing relatively well, the assembly and the parts industries.

Senator Laird: On that point, I noted with interest that you made the general statement, if I understood you, that the parts industry was, if anything, doing better in Canada before the Auto Pact than it is now.

Mr. Lavelle: I made that statement, and I think it is one which can be verified by the fact that in terms of employment it was growing faster; the output was greater. In other words, there was a very successful industry here, but it was a small industry; it certainly did not have the opportunities to compete on a North American basis; it was protected by a high level of tariffs.

Senator Laird: That probably answers what I was going to put to you, that from personal observation—naturally this is only conveying to you an impression, but coming from Windsor I can speak a little about the parts industry —since the Auto Pact, believe me, a lot of parts plants have expanded and a lot of new ones have come in. Would you agree with that?

Mr. Lavelle: I would agree with that. Certainly in the early days after the signing of the automotive agreement there was a tremendous infusion of capital and investment and expansion in the Canadian parts industry, as there was in the assembly industry.

Senator Laird: Since that time there has been a decline in the parts industry. What we need to do is to get at the reasons for that as our next general consideration, and finally the suggested cure.

Mr. Lavelle: Right.

Senator Laird: In reading your brief and other material, it seemed to me that one of your big problems arises out of the fact that, oddly enough, Mexico and Brazil furnish a lot of the production in automotive parts. Is that right?

Mr. Lavelle: Correct.

Senator Laird: Those parts are imported into the United States duty free?

Mr. Lavelle: They come into Canada duty free. In the United States, until recently there has been about a four or five per cent tariff on parts from those developing countries.

Senator Laird: Until recently, but what is the situation today?

Mr. Lavelle: At the present time the United States has just got around to instituting its preference system with developing countries, so that some parts coming into the United States based on quantity come in duty free. In the Canadian context, every part comes into Canada duty free at the present time, from developing countries and from other "third countries" who are in the automotive business.

Senator Laird: Then those exports from Mexico and Brazil are used in Canada for the assembly of motor vehicles assembled here?

Mr. Lavelle: Right.

Senator Laird: Are they also used in the United States for the assembly of motor vehicles there?

Mr. Lavelle: I could not tell you what the degree is. There have been a couple of specific cases in Canada where engines have come in from, for instance, Brazil, put into cars and shipped to the United States. There has been a dramatic increase in the imports of parts from those two countries into the United States. If my memory serves me correctly, I think the number from Brazil has doubled in the past two or three years.

Senator Laird: You mention that in your brief. Having that in mind, you recommend bilateralizing the arrangement between Canada and the United States.

Mr. Lavelle: Right.

Senator Laird: I suppose, for obvious reasons, you want to exclude the ready importation of parts from Brazil and Mexico.

Mr. Lavelle: Can I just expand on that? When the automotive agreement was signed, the American government saw fit to seek a GATT waiver. So far as they are concerned, the Auto Pact is a bilateral document, Canada-U.S. However, Canada did not seek a GATT waiver and all countries were allowed to ship original equipment parts into Canada duty-free. We are seeking a degree of equity with the system the Americans instituted.

Senator Laird: If you did get a bilateral agreement with the United States, would you be running into trouble with GATT at all?

Mr. Lavelle: We posed that question to the Department of Finance and to Mr. Jamieson. Mr. Jamieson said he would review that very carefully with his officials and with us. I do not know whether we would be running into problems with GATT. I would assume that if it was good enough for the United States we should perhaps take a very close look at doing it ourselves. It seems to me that would be useful from our point of view.

Senator Laird: However, it is not readily available to pick out of the air and bring into operation; you would have to go through the process with GATT in the same manner as the United States did?

Mr. Lavelle: I think that would be the course of action followed.

Senator McElman: What would that do to Volvo?

Mr. Lavelle: The arrangements Volvo have with the government are that they are a manufacturer in the true context of the word, the same as Ford, General Motors and American Motors. It would prohibit them from bringing in parts on a duty-free basis, presumably from Sweden, or wherever else they would want to bring them from; there would be a duty applied.

Senator Connolly: I am afraid I do not really quite follow the ramifications of the GATT issue that Senator Laird raises. If you are reducing tariffs, do you still have to go to GATT to get approval, to make sure that you are not violating some of the GATT provisions?

Mr. Lavelle: In this case it is a matter of increasing tariffs; it would be putting tariffs back on, tariffs which were eliminated by virtue of the agreement in the original negotiations. The agreement states than any bona fide manufacturer of vehicles can import parts into Canada duty-free from any country.

The Chairman: In further answer to your question, Senator Connolly, you are quite right that under GATT there is no restriction on reducing tariffs as long as you reduce them to everybody.

Senator Connolly: That is what Canada did.

Senator Laird: That is what I was getting at.

The Chairman: It is not what the United States did.

Senator Connolly: It is not what the United States did, and that is why we had to go to GATT to do it.

Mr. Lavelle: Right.

Senator Laird: Before we get off that point, I have one more question. I note that you complain of the importation of Japanese parts. Would those parts be for Canadian or American-made vehicles, or would they be primarily for Japanese vehicles?

Mr. Lavelle: Japan, Germany and other countries have been requesting a reduction in the tariff frrom 15 per cent down to about 4 per cent on cars imported into Canada.

Senator Laird: But you are talking now about after mark-up.

Mr. Lavelle: We are talking about vehicles; we are saying there should be a Canadian content in those vehicles. They do not purchase any Canadian-made parts of any value at the present time. Japan purchased possibly $1 million worth of parts in Canada last year. We are asking that there be some requirement for Canadian content on vehicles imported into Canada and relate that content to what the duty should be on those vehicles coming into Canada.

Senator Laird: Yes, I understand what you are saying.

Let us examine some of the reasons for the current situation. You have touched upon some of them. For example, let us take the matter of policy. Your contention is that the automotive giants in Detroit make the decisions as to where they will get their parts. Is that it?

Mr. Lavelle: Correct.

Senator Laird: And you are complaining, naturally.

Mr. Lavelle: We are not complaining about that. We recognize that problem with the vehicle industry. It is located in the United States. What we are saying is that when the automotive trade pact was signed, there was a fair share provision in it stating that Canada would get at least the same amount of benefit from the agreement as the United States. We are saying if it worked properly and if it was applied, then we would have no argument but we say that it does not; there is an inherent difficulty for Canadians going to the United States to get their orders.

Senator Laird: In that connection then, what blame do you place upon the UAW?

Mr. Lavelle: That is a difficult question to answer. In Canada the UAW has been very much pro the automotive agreement. In the United States, they have been agitating against it. Therefore, it means that their policy, and they are an international union, comes somewhere down the middle. In some cases, however, if you look at Senator Hartke and Congressman Dent, who have been very much against the automotive agreement, their agitation in our opinion is UAW inspired.

In Canada we have met with Mr. McDermott on some occasions, and he professes to be very concerned about what is taking place in the Canadian industry. I really do not know, therefore, how to assess what the UAW's position is.

Senator Laird: I will not pursue that then. Other members of the committee, however, may want to.

You have also mentioned wage rates. Insofar as you know, is there parity in wage rates in the parts industry as between ourselves and the United States?

Mr. Lavelle: That is not an easy question to answer, senator. In some locations, there is wage parity. I would say, for instance, parts manufacturing plants in Windsor would have wage parity with their counterparts across the line. I would say that in some other communities in southern Ontario that perhaps wage parity has not been achieved. In some cases we have higher wages than, for instance, the tremendous number of parts plants which have opened up in the southern United States. Generally, the figures state that the parts industry has not yet achieved full wage parity with the Americans.

Senator Laird: Would it be safe to say, then, that you do not focus your attention on that as having caused the present situation?

Mr. Lavelle: No, we do not.

Senator Laird: What about the matter of productivity in Canada, in the automotive parts industry as compared with similar plants in the United States?

Mr. Lavelle: I believe that some figures which were contained in the budget paper Mr. McKeough put forward indicated that productivity growth has been steady in the Canadian parts industry. Since the signing of the agreement there has been an increase in productivity but the gap is still about a 20 per cent differential as to the United States.

Senator Laird: That is what I wanted to get at. They are 20 per cent more productive?

Mr. Lavelle: That is right.

Senator Laird: I would suppose you would consider that a factor bringing about the current situation?

Mr. Lavelle: That is definitely a factor. Of course it represents itself by the fact that the Canadian parts industry have not had the opportunities for scale which they have had in the United States, the long production runs which obviously give a good degree of efficiency in their plants.

Senator Connolly: You say part of the lag in productivity is due to the fact that the runs are not as big in Canada. Is there anything to be attributed to the fact that the capital investment has been less here, slower to come?

Mr. Lavelle: I would agree with that, senator. In the early stages there was a tremendous amount of growth, in terms of capital investment.

Senator Connolly: Which added to productivity?

Mr. Lavelle: Which had a large effect on productivity increases in the Canadian parts industry. Even though there has been a decline in that investment since 1970, the productivity gains have been maintained to some degree but much slower than they were in the first five years after the agreement was signed.

Senator Connolly: Where does that investment come from—Canada?

Mr. Lavelle: The automotive parts industry in Canada is 60 per cent U.S. and 40 per cent Canadian owned. Certainly a large part of the investment which came about after the signing of the agreement was from the United States multinational companies that moved into Canada. There has been a substantial degree of investment by Canadian firms. We have some large Canadian owned and operated parts manufacturing firms in Canada.

Senator Croll: Name a few, please.

Mr. Lavelle: One of the largest is Dominion Auto Accessories in Toronto. There is Magna International, which is also a firm located in Toronto; Tridon, in Burlington. I am having a little difficulty trying to recall some others. Ingersoll Machine and Tool, which is part of IVACO. There are some of the companies which are Canadian owned and operated.

Senator Laird: That brings up the corollary and a very important aspect, the problem of technology. In other words, is there any creation of technology by way of improvement which is indigenous to Canada, or does all that engineering knowledge come from the United States?

Mr. Lavelle: It comes from the United States. In the vehicle assembly industry, most of the R&D facilities and engineering were moved to the United States.

Senator Laird: The obvious reason being we simply do not have the facilities, or the funds available, which are required on a large scale for technological studies and improvements. Is that not the fact?

Mr. Lavelle: I would thing that would be one of the reasons, senator. Another reason is the rationalization process, which also had an effect on moving some of the purchasing departments back to the United States that were once in Canada. It is cheaper obviously to maintain one office than two.

Senator Croll: Research as well?

Mr. Lavelle: Yes.

Senator Laird: I can tell you that based on personal experience, having gone through it.

Another factor which was mentioned by you—and I would like to know how seriously you consider it—is the general decline and, therefore, the decline in auto sales. Didn't that naturally affect the auto parts industry?

Mr. Lavelle: There is no question that the decline in sales in the United States of vehicles had an effect on Canada. We are exporting in excess of 90 per cent of what we produce. Therefore, if the vehicles are not being sold, we are obviously losing a market there. What is interesting to note, however, in the figures which we put in some of the briefs is that even though the U.S. market was down in 1974 there was an increase in the volume of parts imported into the United States.

Senator Connolly: That is easy to understand though, is it not?

Mr. Lavelle: These are original equipment parts, senator.

Senator Connolly: You mean they could not be used as spare parts in older cars?

Mr. Lavelle: They could be diverted to the after-market, but presumably they were being brought in, in the trend of the vehicle companies to source more parts offshore.

Senator Laird: Has the factor of the increased value of the Canadian dollar not also affected your industry?

Mr. Lavelle: That has a dramatic effect, obviously. When the agreement was signed, as I pointed out, we had a 92½ cent dollar, in comparison to the United States. That has moved up to parity and above par and that affects our competitive position.

The Chairman: Interest rates also would have the same effect.

Mr. Lavelle: Yes.

Senator Laird: I have one final question, with relation to the main heading, and then I will turn the questioning over to other senators.

Naturally, in your brief, you have suggested certain cures for this situation. We have already mentioned one and talked about it, the proposed bilateral deal to replace the present situation.

Mr. Lavelle: Correct.

Senator Laird: In general, then, this situation involves more or less segregating your parts industry from the assembly of motor vehicles. Does that not offer some rather practical difficulties?

Mr. Lavelle: What you suggest is precisely what we would like to see done. We would like to see the parts industry considered separately from the vehicle industry and have the judgment take place in that area as to how we are achieving our fair share, as opposed to taking a look at the automotive industry as a whole. Obviously, if we look at some aspects of the automotive assembly industry and lump everything together, Canada has a surplus in trade. I should say it has had surpluses. It has not had many. Therefore, the parts aspects of it are not taken into consideration at all.

Senator Laird: That offers problems in negotiations, does it not, if you consider the implications?

Senator Connolly: Perhaps you would explain what you mean, senator.

Senator Laird: Negotiations on a matter as complicated as the Auto Pact are usually accomplished by looking at the overall picture. It so happens that automobiles are made up of parts. Therefore, there is a tendency to consider them all lumped together. This creates a practical difficulty in trying to treat auto parts as a separate category. Is that not true?

Mr. Lavelle: There is no question that when you are talking about the automotive industry you are talking about parts and assembly. We are trying to change that concept, because it is quite clear that the decision-making process with respect to the sourcing is different from the decisions made with respect to the production of the vehicles. From some of our discussion with the United States we have reason to believe they are prepared to take a look at the parts industry as separate from the assembly industry.

Senator Laird: You do have some encouragement, then. That is interesting.

Mr. Lavelle: There is a general understanding in the United States that the parts deficit is out of line in terms of international trade.

Senator Connolly: What percentage of your parts production in Canada is intended for assembly, and what percentage is intended for after installation?

Mr. Lavelle: In excess of 75 per cent is destined for original equipment.

I must also add to that that information with respect to the precise breakdown of what goes to the after-market and what goes to the original equipment market is hazy. There are no set figures, but we understand that it is about 75 per cent.

The Chairman: Senator Laird, would you develop for a moment with the witness the question of the automotive parts being considered separately? Does he mean as a separate consideration with the Auto Pact, two separate agreements, taking it right outside the Auto Pact entirely and going back to our original position? I think that would be important to pursue.

Senator Laird: Yes. I would like to hear him on that, because it is fundamental to the consideration of the whole problem.

Mr. Lavelle: No. We say that the parts industry should be considered in the context of the automotive industry. We are not advocating that we go back to a position where Canada is hiding behind a tariff protection and supplying only the Canadian market. We feel strongly that the rationalization process which came about as part of the agreement is beneficial and should continue. We feel there should be some control on what that deficit amounts to. We feel it should not rise up to $2 billion or $2½ billion as it did last year without some mechanism coming into play to reduce it or to force a reduction in that deficit.

Senator Laird: You seem to be rather skeptical about the so-called safeguards with respect to your parts industry.

Mr. Lavelle: That is an involved question, but I think the safeguards in terms of the automotive agreement have tended to allow the vehicle manufacturers to meet the requirements of the automotive agreement by increasing their assembly operations in Canada as opposed to utilizing parts made in Canada. The CVA Canadian value added— is made up of a myriad of things including parts. Parts is a small component of it. Cost of assembly, labour, overhead, these are all part and parcel of that CVA.

Senator Laird: That is really your problem.

Mr. Lavelle: That is our problem. What we are saying is that if CVA were defined to mean Canadian-made parts, then presumably we would not have too many problems.

The Chairman: Am I correct, then, Mr. Lavelle, that your answer indicates that you would like a solution found to your portion of the industry's problems within the umbrella of the Auto Pact?

Mr. Lavelle: Within the umbrella of the Auto Pact or some agreed-to arrangement that included the entire automotive industry.

The Chairman: Which the Auto Pact does.

Mr. Lavelle: That is right.

Senator Laird: Including after-market products?

Mr. Lavelle: No.

Senator Laird: In other words, you want that tariff on after market products left.

Mr. Lavelle: Yes.

Senator Laird: Has there been any threat of removing it?

Mr. Lavelle: One of the postures of the United States has always been that in any negotiation of the agreement the tariff on after market parts would have to be eliminated. We have professed strongly that we are not interested in seeing that happen at the moment.

Senator Macnaughton: To what extent is the Automotive Parts Association Canadian owned, and to what extent are American subsidiary companies members of the association? Is there any breakdown of that?

Mr. Lavelle: The auto parts industry itself is about a 60-40 split, U.S.-Canada. The automotive parts association is representative of only independent manufacturers, whether they be Canadian or subsidiary operations of the U.S. The makeup of the association is representative of the Canadian industry: about 60-40.

I would point out that in the brief we submitted the people who are on our board of directors are representative of the after-market, representative of Canadian companies and representative of companies which are subsidiary operations. I would point out further that our board is comprised of members such as John Halada from Windsor, who is president of the Canadian-owned company, Dominion Forge Company Limited; Leonard Neal, also of Windsor, is president of Tamco Limited, again a Canadian-owned company. Another member is the general sales manager of Dofasco, a Canadian owned steel company. You can see that the membership is strongly representative of the industry.

Senator Macnaughton: One of my fears is that with American subsidiary company officers the American head office might have considerable control in your section.

Mr. Lavelle: It varies, senator. In some cases the companies are operated from the United States. In other cases the local management has a great deal of autonomy. I cannot answer with a yes or no, senator. It varies from company to company.

Senator McElman: Is there not a trend toward moving both management and engineering back to the United States?

Mr. Lavelle: I would say that in the parts industry the trend has been in favour of Canada. I have noticed in recent weeks that a number of companies are improving their management capability in Canada, as opposed to reducing it.

Senator Croll: If 95 per cent of the Canadian parts go into the United States, what is there to keep them here? Why should they not do what was done in the case of farm machinery, by moving it over to the United States?

Mr. Lavelle: Obviously, in view of the tremendous proportion of the industry which is exporting to the United States, the ultimate question is, what is going to keep them in Canada over the long run? There are Canadian companies presently in business in Canada who have considered expanding their operations into the United States rather than within Canada.

Senator Croll: Just recently the Budd Automotive Company in Kitchener lost a very considerable contract to somebody in Flint. What was that due to? You indicated that wages are about the same, that productivity has not changed, then perhaps the dollar was a factor, and I do not know about the tax levy, because I do not know the difference between the two; but what brought that on? This was a long-term deal that they had had in Kitchener for many years.

Mr. Lavelle: I cannot answer on behalf of the motor vehicle manufacturers, but from what I read in the newspapers was it the result of an economic decision made by General Motors. It also reflected the fact,

I think, that there was a considerable degree of capacity in the General Motors frame plant in the United States, and that they were utilizing that capacity first.

Senator Croll: That is what I was saying with regard to moving over to the United States, when the opportunity presented itself.

Mr. Lavelle: Right.

Senator Croll: In connection with the kind of losses that we have suffered under the agreement, such as declining exports and loss of some of the Canadian market, are we losing that market to Brazil, Mexico and Japan?

Mr. Lavelle: Well, I would say that because of the Auto Pact, and the fact that it is multilateral, we have already lost a certain amount of production because of the importation of parts, for instance, from Brazil and Mexico. We are now afraid that because of the extension of the general preferential tariff to these developing countries, where the automotive industry is quite mature, there will be an influx of parts into, generally, either the after-market or to the original equipment market, from Mexico, Brazil and Venezuela.

Senator Croll: Venezuela has just started, has it not?

Mr. Lavelle: No. Contrary to general belief, the automotive industries in these countries are advancing quite rapidly. For instance, it is generally considered that Brazil will have surpassed Canada in the production of vehicles by 1980. They also maintain in those countries, particularly in Brazil and Mexico, very strict rules and regulations which force the vehicle manufacturers to buy local content. In Mexico I think it is up around 80 per cent. in Brazil most of the vehicles that are produced there are made out of parts produced in Brazil. They have nurtured and forced the growth of their own domestic parts industry.

Senator Croll: Is the car industry in Brazil an independent industry, on its own?

Mr. Lavelle: The parts industry is.

Senator Croll: I am talking about the car industry.

Mr. Lavelle: General Motors, Ford, Chrysler and Volkswagen are all in Brazil.

Senator Croll: And in Mexico?

Mr. Lavelle: And in Mexico as well.

Senator Croll: Are they all subsidiaries of the American companies, more or less?

Mr. Lavelle: Right.

Senator Croll: But the parts industry is their own?

Mr. Lavelle: The parts industry is their own. I will elaborate on that, senator, by saying that certainly many of the multinational parts manufacturers that are located in Canada, such as the Dana Corporation, TRW, and so on, are located in those countries as well.

Senator Connolly: They are becoming multinational, in other words.

Mr. Lavelle: That is right.

Senator Croll: Well, how deeply have these Third World countries cut into us over a period of time?

Mr. Lavelle: The preferential tariff was just enacted in 1974, so that the effects of the importation of those parts has not been dramatic as yet. What has happened is that there is a tendency on the part of the vehicle manufacturers to attempt to source offshore—in other words, in some of the other developing countries—where they can manufacture their parts more cheaply, and ship them all over the world with export subsidies.

Senator Croll: Earlier I think you said, in reply to a question from the Chairman, that you would like to keep that under the umbrella of the agreement. You are not anxious to get out on your own.

Mr. Lavelle: Perhaps there is another agreement somewhere that involves the automotive industry. I am not stuck on the idea that there has to be an automotive trade pact. We have to take into consideration the idea that protection of some kind should be afforded the Canadian domestic industry in relationship to the United States.

Senator Croll: The agreement, in the main, has been of considerable advantage to us with regard to employment, has it not?

Mr. Lavelle: The agreement has produced a certain amount of employment; however, there is a very strong debate as to what the employment level would have been in Canada in the absence of the agreement.

Senator Croll: Well, when you talk about what would have been, yes; but whether any of it would have been available is the question.

Mr. Lavelle: I think we would have continued to sell and produce cars in Canada in the absence of the agreement, so presumably, with the tariff situation, there would have been a high degree of parts manufactured in this country. The employment levels did go up until 1973, but they have begun to slide since that time.

Senator McElman: You put up quite a storm signal when you said that by 1980 production in Brazil will be exceeding Canadian production, and this leads me into an area into which, with this witness, one should not go too far, though you have heard me express my thoughts before, Mr. Chairman, about multinationalism. What is the basic reason for the majors going into Brazil and Mexico? I think that should be part of the record.

Mr. Lavelle: I agree with what you have said, Senator McElman. Perhaps the motor vehicle manufacturers would be best able to answer that question. Certainly, however, there are a number of reasons that I can mention. The first is that there is a very large potential market in South and Central America, since the number of cars per capita is very low in comparison to what it is in Canada and the United States, and the rising standard of living provides the opportunity for those countries to increase their assembly.

In the second place there is a tremendous impetus on the part of the governments of those countries towards

encouraging the automotive industry to settle in that particular part of the world, because it provides employment—assembly jobs—in return for capital investments.

Another reason, of course, is that from the United States' point of view these countries provide an opportunity for the vehicle companies and the part makers to produce parts, in Mexico and Venezuela, more cheaply than they can in the United States, and presumably, in some cases, in Canada, and also to source on a world-wide basis at the best possible price.

Senator Cameron: What would be the wage differential between Canada and, say, Brazil?

Mr. Lavelle: We had some figures which indicated that it was pretty close to 40 per cent; but that situation, senator, is changing very rapidly, and I do not want to put those figures forward in any way as being firm. There is still a very marked difference.

Senator Cameron: It represents quite a leverage, though.

Mr. Lavelle: Yes.

Senator Macnaughton: There is another factor, of course, is there not, and that is the very large population? The population of Brazil is over 100 million people, is it not?

Mr. Lavelle: Yes, it is.

Senator Laird: What about subsidies?

Mr. Lavelle: In terms of the developing countries, of course, there are tremendous subsidies for exports, which do not apply is Canada. You had a very long dissertation, I think, at your last session on the DISC program and its effects on exports from the United States. I think all of these programs that supply subsidies, either in the developing countries or in the United States, have an effect on what is happening in Canada at the present time.

Senator Connolly: The corporate tax rates are lower down in the South American countries, are they not?

Mr. Lavelle: I think they are guaranteed a faster return on their investment in those countries, as some indication of the risk that is involved in locating there.

Senator Croll: Is there some difference in the tax rate between Canada and the United States? I did not think there was a great deal of difference.

Mr. Lavelle: I think the primary difference, in terms of the tax rate now, if you are talking about the competitive position between Canada and the United States, is in the area of DISC. That gives them an advantage.

Senator Croll: Can you tell us anything about the differential between the price that an American would pay for a particular car and the price that a Canadian would pay for the same car?

Mr. Lavelle: I would like to be able to tell you, senator, but that is something for the motor vehicle manufacturers.

Senator Croll: But don't you know?

Mr. Lavelle: I have my own theories.

Senator Croll: Well, we have been dealing in theories, so let us hear them.

Mr. Lavelle: Senator, I would say that in terms of looking at the vehicle industry in Canada, the fact that productivity has been declining in vehicle assembly and the safeguards imposed by the agreement have contributed to the price differential that exists.

Senator Croll: Well, whatever contributes, just give us the price.

Mr. Lavelle: The vehicle manufacturers claim that there are costs in Canada that are not to be found in the United States. Then there are the safeguards and the particular situation in Canada with respect to advertising, bilingualism and warranty parts. Those are costs that play a part. However, I cannot vouch for them.

Senator Croll: Never mind the vouching, and never mind the causes; just tell us what it is in dollars.

Mr. Lavelle: Well, so far as the differential is concerned, I have seen some figures and I think Mr. McKeough put them in his budget presentation which said that the differential was now about 7 per cent and that it had been up as high as 30 per cent at one time. According to the figures, the price differential has come from 30.7 in 1964 to 7.8 in 1975.

Senator Croll: I have not seen these figures. Does he indicate the difference for each year?

Mr. Lavelle: He indicates from 1964 to 1970 and from 1970 to 1975.

Senator Croll: Well, let us have them, then.

Mr. Lavelle: In 1964 the differential in medium-priced cars was about 9.5 per cent and in higher-priced cars about 30.7 per cent. In 1970 for medium-priced cars it was 9.1 per cent and for higher-priced it was 13.5 per cent. Then in 1975 the medium-priced car differential was 4.8 per cent, and the higher-priced car differential was 7.8 per cent.

Senator Croll: I thought it was a little higher myself, but I assume that the figures are wrong in his budget! But that is another thing. Do you consider that to be a decided advantage for the Canadian people?

Mr. Lavelle: What, to have to pay a higher price?

Senator Croll: No, but starting from a differential of 9 per cent and 30 per cent and coming down to 4 per cent and 7 per cent.

Mr. Lavelle: I think it has been a benefit to the Canadian consumer. Personally I think they should be the same.

Senator Croll: Of course, that is the ultimate that we were hoping for, but was that not part of the intent of the agreement in the first place?

Mr. Lavelle: Certainly.

Senator Croll: And to that extent we are making some progress. But at that time, when we were dealing with the overall situation, did they give the parts portion real consideration, or were you in the picture at that time?

Mr. Lavelle: Yes, we were in the picture. But I am not sure how much in the picture we were. I certainly think that there were two prime considerations in signing the agreement, the first was to maintain a vehicle industry in this country, and the second was to eliminate or to make some attempt to eliminate the differential in price as between Canada and the United States. The question of the balance of trade was a factor as well.

Senator Croll: And employment.

Mr. Lavelle: That is right.

The Chairman: Before you continue, Senator Croll, may I have your agreement that the table referred to by the witness on page 9 of the Ontario budget presentation be included in the record?

Senator Laird: But it is already in.

The Chairman: He has read parts of it.

Senator McElman: And can you arrange to get copies of the budget presentation for the committee?

The table follows:

Price Differentials, Canada vs U.S. Table 1
(Percent Difference in Factory List Prices)

Year	Medium Priced* (%)	Higher Priced* (%)
1964	9.5	30.7
1970	9.1	13.5
1975	4.8	7.8

*Medium Priced: 4-door 8-cylinder sedan; Higher Priced: 2-door 8-cylinder hardtop.

Source: Annual Reports of the President of the United States.

Mr. Lavelle: This is a copy of the Ontario budget, but there was one section put together at the end which deals with the automotive program, and I would be happy to turn it over to the committee.

The Chairman: Yes, I think you would agree, Senator McElman, that it would be bulky to include in the record, but I shall see that it is reproduced and circulated to all members of the committee.

Senator Croll: But taking into account the fact that we had four or five objectives at that time, have they not realized the major portions of those objectives, and are you not now the low man on the pole?

Mr. Lavelle: We admit that there has been a tremendous improvement in the situation as a result of the signing of the agreement. Part and parcel of the agreement was that there would be an equal share, a fair share provision, which meant that growth not only in the assembly industry but in the parts industry would be on an equal basis with that which took place in the United States. But if you take a look at the figures showing the developments that have taken place since 1970, the fair-share provisions of the agreement are not being met by the United States. That is insofar as parts are concerned. Mr. McKeough points out that insofar as the vehicle assembly industry is concerned there are weaknesses now.

Senator Croll: But where is our muscle to correct these defects?

Mr. Lavelle: We have said to Mr. Jamieson we feel there can be a negotiated arrangement and there can be some improvement in the relationship between our two countries in this area on a negotiated basis, because the vehicle manufacturers have a market to protect in Canada. It serves their purposes to be rationalized rather than putting forward an industry for Canada and one for the United States. Therefore there are significant benefits from their point of view to operating the way they are operating at the present time. We are saying Canada has the muscle to say either there should be some arrangement that is equal to both countries, or there has to be some provisions of content placed on the vehicles that are produced in Canada in Canadian-made parts.

Senator Laird: On a production-to-sales ratio?

Mr. Lavelle: On a production-to-sales ratio. It could be equal to a certain figure—90 per cent of the car could be in value of Canadian parts whether it be produced here or in the United States. The idea obviously would be to try to close the production to consumption gap which exists.

Senator Connolly: You say that there should be some adjustment which would require some Canadian content for Canadian assembled cars. If that is so, would you say that most of those parts that would be in that assembly would come from Brazil and other countries or from the United States?

Mr. Lavelle: I would think that what we are saying is that if there was a content provision, senator, that the parts could be manufactured in Canada and they could go into cars manufactured either in Canada or elsewhere.

Senator Connolly: What I am asking you is what is shut out if we have that Canadian content.

Mr. Lavelle: Presumably nothing is shut out except by the content regulations.

Senator Connolly: That is all right, but surely something will be shut out? If you are going to manufacture more in Canada, that means you will import less, so something will be shut out. Will it be American parts that will be shut out or South American parts?

Mr. Lavelle: It would be primarily American parts, but it would contribute to the decline of the trade deficits because we would be importing fewer parts.

Senator Connolly: Yes, but this follows from Senator Croll's question. You are talking about muscle to achieve this purpose. What about the situation in the American trade unions? They are going to resist this very strongly because they say that that, in effect, would be exporting jobs from the United States. Isn't it?

Mr. Lavelle: The UAW takes that position and have taken a very strong protectionist position. We say, really, that in terms of the agreement, change would simply give us what we already deserve.

Senator Connolly: You say the UAW takes a strong protectionist position. Are you referring to the UAW in Canada?

Mr. Lavelle: The UAW in the United States, senator.

Senator Connolly: But you are here looking for protection for the Canadian industry?

Mr. Lavelle: That is right. The position of the UAW with respect to the agreement in the United States has been based on the fact that there is too much assembly carried out in Canada, which causes the loss of jobs in the United States.

Senator Connolly: It is not with respect to parts?

Mr. Lavelle: Not parts; they recognize, of course, that applying the figures used in the United States in terms of, say, $1 billion means approximately 26,000 in terms of jobs. So in terms of the deficit in the parts trade, or the surplus, they have a fair number of jobs which belong in Canada at any rate. In my opinion there could be some decline in the Canadian assembly industry to offset an increase in the production of parts in Canada.

Senator Croll: Do you think we would be wise to open the conditions of the agreement in view of the present mood in Congress, the UAW and throughout the country? Is this the sort of situation we could gamble on at the present time? You have had a great deal of political experience through working with Connolly; that is really the situation facing us, is it not?

Mr. Lavelle: Again I do not know when the precise time would be. Obviously some problems do exist in the United States at the present time. In my opinion, however, they are highly overstated. I do not believe that the opposition in the United States is nearly as severe and detailed as it is made out to be. However, a study is being carried on and in my opinion it should be allowed to be completed this summer. At some point, though, someone has to declare that this is enough and discussions take place.

Senator Croll: Allow me to suggest two factors which indicate that this is not an appropriate time. Firstly, the UAW has contract negotiations with the automobile industry taking place this year which may cause a very serious problem, as you know. Secondly, an election campaign is going on in the United States. In the light of these two factors, do you not think it is a time during which we should lay low?

Mr. Lavelle: I believe the U.S. election should be allowed to take its normal course.

Senator Laird: It will, anyway.

Mr. Lavelle: It will, but I would think that the review and Canada's position should be firmed up.

Senator Croll: Are we not doing just that?

Mr. Lavelle: There is a process going on, I am sure.

Senator Croll: In both countries.

Mr. Lavelle: In both countries. The study and the direction it will go are very hazy indeed. Some say it is a study into the 1980s and the future of the industry. Some say it is related to the Auto Pact. We hope it will be related to the automotive agreement.

Senator Croll: If you have no solution for the 1970s, you can always profess that you have something for the 1980s.

Mr. Lavelle: Yes; maybe, senator.

Senator Connolly: Senator Croll is really saying that this is probably not the time to allow presidential or other candidates speaking in Michigan, Wisconsin, Illinois and these other northern states to start talking tough about conditions of the automotive agreement with Canada. It is a very great temptation when you think about employment.

Mr. Lavelle: My view is that it is very difficult to be defensive about a $2 billion trade deficit. I do not understand why the Canadian position is one which has to be overly concerned as to what may be said in the United States, in view of the fact that they are benefiting substantially from the agreement.

Senator Connolly: That is a good answer. However, I am convinced that your problem is timing.

Mr. Lavelle: Certainly, we agree with respect to the timing, and Mr. Jamieson makes it very clear that there is a problem with respect to the United States election. However, there might presumably be a problem with respect to the new administration. The fact is that it could go on indefinitely without being resolved. I must say that the auto agreement has been in existence for 10 years and has never really been discussed over that period of time, during which there have been many economic changes. We do not think that there must be an international incident in order to make some substantial changes in trade patterns that are taking place at the present time.

Senator Croll: I believe that we, in the committee, agree with you in the main in all respects. Speaking only for myself, however, in my opinion your timing is terrible. With respect to the United States election campaign, I believe the most serious factor at the moment, which was put well by Senator Connolly, is that of the candidates speaking in Detroit about the automotive industry. However, this is a labour relations year in the automotive industry. It could wind up with a strike over there, and there could be repercussions here also. If the truckers stop running for two hours, even for coffee breaks, Brampton starts shutting down. That is how serious a situation we face, so we must be very careful.

Senator Macnaughton: My question is a little naive, but who do you think should carry the ball in this renogiation of the Auto Pact? For example, you have had, I assume, support from Mr. McKeough very recently. You put a bee on Mr. Jamieson. Whatever steps would you take to line up this fighting force to go down across the border and open up negotiations?

Mr. Lavelle: I gather that obviously the Minister of Finance and the Prime Minister must agree that now is the appropriate time, or the time is ripe to negotiate the agreement with the United States. I would say that in

terms of the Ontario government, obviously the ball is thrown into the court of the federal government after a thorough and very exhaustive study of what is taking place in the industry.

Senator Laird: Which is a normal process with the Ontario government.

Senator Macnaughton: Has your association really taken steps to apply distinct pressure recently on the federal government?

Mr. Lavelle: We have met with Mr. Jamieson on a number of occasions and with officials of the Department of Finance. The industry has stated, through its board of directors on a number of occasions publicly and privately, that we feel that some activities must be undertaken to change the balance in order to eliminate the deficit.

Senator Flynn: Did you say that no activities at all are taking place at the official level?

Mr. Lavelle: A study is taking place which is being conducted by the federal government in Canada. A similar study is taking place in the United States. These are considering the agreement at the present time. I believe the United States group was in Ottawa for meetings yesterday. Mr. Jamieson indicated that a study is taking place and it is hoped that some conclusions will be reached fairly soon.

Senator Macnaughton: But if it is like the textile trade, it may go on for several years.

Mr. Lavelle: That is one of our points, senator. Senator Croll, has, in my opinion, very correctly pointed out that the time is not appropriate for renegotiation. However, our question is: When will the time be appropriate, in the textile, automotive or any other industry? In my opinion, economics dictate that it should be now.

Senator Croll: The textile industry in this country has always been expendable to some extent, as you and everyone knows; but the automobile industry, never. That is the difference between the two. We traded off one, but we never trade this. We were very careful to make sure it was preserved.

Senator Macnaughton: Is that a matter of geography or a matter of logic?

Senator Croll: Actually, it is a matter of history.

Senator Laird: When you said you were firming up your position, you mean that you were engaged in these preliminary studies, getting ammunition? You are not necessarily saying that you have to jump right into the fight now. You are firming up your position.

Mr. Lavelle: Our position is pretty firm. We are trying to convince the federal government that they should set a deadline for some sort of change in the agreement. That is precisely what I would think. We are not trying to force anyone into—Mr. Jamieson referred to it as "gambling with a loaded gun." I think we want to be as responsible as the next fellow, and when the timing is right we should be prepared to jump with both feet.

Senator Connolly: Mr. Lavelle, the other day we had a witness who described to us the situation in the defence production agreement between Canada and the United States, and he indicated that the value of the trade in that sector was only about one per cent of the total Canada-U.S. trade picture. What is the value of the trade between the two countries under the Auto Pact?

Mr. Lavelle: I think the total trade is somewhere in the neighbourhood of $12 billion annually.

Senator Connolly: Twelve billion dollars?

Mr. Lavelle: Yes. I believe that in automobiles and parts in the total value of Canadian trade is somewhere in the neighbourhood of 10 per cent. It is considerably higher in manufactured goods; it is in the neighbourhood of 20 or 30 per cent. I am pulling those figures out of my head. I would prefer to confirm them.

The Chairman: Perhaps I could help the witness with that. The evidence before the committee on the first part of our study—I am not sure it is not quoted in our first report—indicated that of our total trade with the United States, approximately 50 per cent is in manufactured goods, and that of that 50 per cent approximately two-thirds is the Auto Pact.

Senator Connolly: It is good to have that on the record.

The Chairman: The total both ways is about $42 billion. So it would be $22 billion in exports. Half of that would be $11 billion, and two-thirds of that would be about $7 billion or $8 billion in the Auto Pact. That is one way. You double that for two ways.

Senator McElman: The witness referred to $12 billion. That would be about 30 per cent of the total.

The Chairman: That is correct.

Senator Connolly: They told us, with respect to employment under the Defence Production agreement, that there was a hard core of perhaps 12,000 people, but that with the spinoff, or the overspill, it could be assessed at somewhere between 100,000 and 115,000. What are the comporable figures for employment in Canada under the automotive agreement?

Senator Laird: You mean in parts?

Senator Connolly: Both.

Mr. Lavelle: The latest figure for employment in the automotive industry is 100,000 jobs. That is a round figure.

Senator Connolly: That is the hard core?

Mr. Lavelle: Yes. Mr. McKeough, in his budget statement, indicates that about one in six jobs in the province of Ontario is an automotive job, so the spinoff from that is considerable.

Senator Croll: Three million five hundred thousand is the figure of employment in Ontario. That is the figure I gave you. You might remember that. It is 3.5 million. One in six of that is about 600,000.

Mr. Lavelle: Employment was higher in 1973. It has had some decline since then.

Senator McElman: I said, as an aside to Senator Croll, "No wonder they won't let us get that 15 per cent tariff off!" That is what I wanted to talk about. I would like to show my regional bias.

The Chairman: Senator McElman, this particular meeting would not be complete unless you did!

Senator McElman: It balances out your west-of-the-Rockies bias! The witness spoke a short while ago about the fair share arrangement under the Auto Pact. One of the protections which Canada has—which was agreed to under the Auto Pact, I believe—was that there would remain a 15 per cent tariff by Canada against individual importation of finished automobiles. We found out from other witnesses that individual importation did not mean that Charlie McElman could not go to the border and pick up a car across in Maine. It meant that through the marketing arrangements of the Big Four, this was all locked up. Therefore, you have a very heavy degree of protection within Canada for the assembly plants of central Canada. What has been the effect of this on the automotive parts industry as a protection, and what would be the effect if the 15 per cent were removed and, let us say, dealers in the extremities of the country were able to bring in cars from across the line?

Mr. Lavelle: In reply to your first question, senator, I am not sure what is the effect of the 15 per cent duty on the parts industry in cars coming back into Canada. Vehicles manufactured in the United States by the vehicle companies come back and forth duty free. Insofar as the dealers are concerned, the dealers have said constantly, and I think with some effect, that if the duty were eliminated on cars coming into the country, the dealerships in the border areas would be decimated—based on the fact, presumably, that if there is a price differential, people would prefer to go across the border to get a car. Presumably, if the differential were removed and the duty was not there, that would be a different situation and might have a different effect. I am not sure whether you would go across the border to Maine, for instance, and buy a car if the price were the same.

Senator McElman: I certainly wouldn't at the present time. As I told the committee before, I came to Ontario to buy a cheap car. A Volvo, for example, costs more in Halifax, where it is assembled in Nova Scotia, than it does in Toronto.

Senator Flynn: It sells for more than it costs?

Senator McElman: I am talking about the cost to the purchaser. So this is a very important element in protection for the purchasers of automobiles in central Canada. It is important to the people of the Atlantic provinces and the Prairies, but in a very different fashion. My question concerned the effect of its removal, and your answer was very similar to that given by other witnesses before the committee. It was a non-answer.

Senator Flynn: Why is it, Senator McElman, that a Volvo would cost less in Ontario—

Senator Croll: He said more.

Senator McElman: It is the marketing arrangement.

Senator Flynn: If you have to pay transportation for the Volvo, certainly the manufacturer would ask less from Ontario dealers—

Senator McElman: It is strictly a marketing arrangement; nothing else. The cost element is not there.

Senator Flynn: Do you mean that the manufacturer would get the same for a car sold in Halifax as he would if it were sold in Toronto?

Senator Connolly: Senator McElman give us some examples.

Senator McElman: I gave you my own example.

Senator Flynn: I would like to understand why.

Senator Connolly: If he gives us the example, Senator Flynn, we can nail him on it. Give us the example of the car you bought.

Senator McElman: I bought an American Motors Hornet, which is the medium size wagon, and I purchased it in Bells Corners.

Senator Connolly: We do not want to know what your income is, but how much did you pay for it?

Senator Flynn: Part of his income is public.

Senator McElman: I believe I paid $4,870.

Senator Connolly: One used to be able to buy a house for that much.

Senator McElman: I saved between $400 and $500 by buying that car in Ontario as opposed to buying it in New Brunswick.

Senator Connolly: So, you would have paid approximately $5,300 for that same car in New Brunswick?

Senator McElman: Yes, approximately. Those figures may not be absolutely accurate. My saving is what I am very accurate about.

Senator Connolly: How do you account for the difference?

Senator McElman: Transportation costs would account for a portion of it, but certainly it would not be a large percentage of it.

Senator Macnaughton: Volume of sales would enter into it.

Senator McElman: That would enter into it, yes, and there is also a higher mark-up involved.

We are getting off Canada-U.S. relations, Mr. Chairman, for which I apologize, but this has to do with marketing arrangement by the Big Four, in particular, and others, within Canada, and it is a rip-off on the extremities of the country.

The Chairman: With respect, in my opinion, you are not getting off Canada-U.S. relations. This area is germane to the business of trade between Canada and the U.S. vis-à-vis the type of impact the tariffs have. I am not saying that the tariffs are necessarily bad from an overall Canadian point of view; I am simply saying that, in my judgment, this is germane to the area the committee is studying.

Senator McElman: If you feel it is, let me make one further comment. The extremities of this country are alluded to, on occasion, as being a drain upon central Canada, because of subsidization—DREE, freight rates, and what-have-you. These areas of the country are often referred to, in Parliament and elsewhere, as "the drain upon the national purse".

The Chairman: Only the eastern extremities, Senator McElman.

Senator McElman: It must be recalled in instances such as this that anywhere east of Montreal, as well as the Prairies, has, over many years, been carrying out a very substantial subsidization of central Canada, and the auto industry, of course, is the prime example of that.

Some Hon. Senators: Hear, hear.

The Chairman: I think the point which you commenced to make just prior to Senator Flynn's coming in is that the Volvo automobile is assembled, or manufactured, in the Maritimes.

Senator McElman: That is right, in Nova Scotia.

The Chairman: And despite the fact it is assembled in Nova Scotia, it costs more to buy one in Nova Scotia than it would cost to buy one in Ontario?

Senator McElman: That is right.

The Chairman: That is a function of the tariff.

Senator McElman: It is a marketing deal.

Senator Croll: I hate to say this, Senator McElman, but when I was down in your part of the world, I found that I could buy potatoes cheaper in Montreal than I could right in the Maritimes where they were grown.

Senator McElman: In certain seasons of the year, that is right.

Senator Croll: I do not remember the season, but it certainly struck me as being most unusual.

Senator McElman: As I say, there is a seasonal factor involved. However, it also shows the trend of the marketers in Canada.

The Chairman: Honourable senators, while I gave the opinion of the chair that Senator McElman's line of questioning was germane to our overall study of Canada-U.S. relations, it might be well if we now tried to come back to the area before us today, namely, the auto parts portion of the Auto Pact.

Senator McElman: Could I then put a question regarding Volvo? Would you not eliminate operations such as the Volvo operation in Canada?

Mr. Lavelle: Under the automotive agreement—and we are not recommending a change in that aspect of it—if Vovlo is a bona fide manufacturer of vehicles in Canada, it would still have the opportunity to import parts, say, from the United States, but it would be affected on the importation of parts from Sweden. What that effect would be, I am not sure.

Senator McElman: I suspect it would make the Volvo plant in Nova Scotia non-competitive, as a result of which it would fold.

Mr. Lavelle: It would have the effect, on a bilateral basis, of perhaps increasing the cost of parts, but it may also have the effect of establishing a considerable amount of cost savings by sourcing its parts production in Canada rather than importing them from Sweden, which would presumably result in a reduction in the price of its cars.

Senator McElman: I do not share your enthusiasm for its future.

The Chairman: Since there are no other questioners at the moment, I might interject with one or two questions of my own.

Before coming to a statement you made, Mr. Lavelle, I have one or two peripheral questions I should like to ask. You stated—quite accurately, from what I read these days—that at the moment we have a bad bulge in the deficit under the Auto Pact with the United States of approximately $2 billion, and that most of this impacts on the parts side of the industry.

Mr. Lavelle: That is right.

The Chairman: Am I correct in my recollection of previous evidence that the percentage of the Canadian market now served by the Canadian industry, in both vehicles and parts—quite dramatically increased under the Auto Pact?

My recollection is that we had evidence to the effect that we had an imbalance in 1965, relative to the Canadian share of the total North American market, of about 40 per cent and that, as a result of the auto agreement, that imbalance has been reduced, taking the Canadian market relative to the total North American market, to an imbalance of approximately 11 per cent in the period of time since the Auto Pact. Is that an accurate statement?

Mr. Lavelle: I am not sure that it was ever put forward in that particular light, Mr. Chairman. When the automotive agreement was negotiated, the deficit, which was stated in terms of dollars, was $640 million. The progress of that deficit, restricting it to the parts area, has been that for last year it amounted to $2.4 billion.

I do not know whether you can relate it on the basis of overall trade. We have never examined it in that particular light. I think what we have looked at is what the share of the Canadian market meant in terms of the overall North American market, and in both cases the share of the Canadian market has increased dramatically compared to what it was in 1964.

The Chairman: So, if we eliminate the line between manufacturers and parts production for a moment, the Auto Pact has been of signicant assistance to Canada in securing a larger share of the North American market?

Mr. Lavelle: The pact has been of assistance to Canada in increasing production, both in the vehicle and the assembly areas, yes.

The Chairman: When you say "increase in production," we have a general increase in production, so to be a good

increase as opposed to a bad increase it must be relative to something. Relative to the total North American market has it increased?

Mr. Lavelle: Again I think you have to look at the fact that in 1964-65 Canada represented a very small share of the total North American market. On the most recent figures, in 1974 Canada represented about 12 per cent of the total North American market, taking into account the fact that car sales in the United States went down and Canada sales were buoyant.

The Chairman: A normal share for us to have would be closer to 10 per cent, I suppose, on population?

Mr. Lavelle: That is the population equivalent. I am not sure that it applies in this case. I think it has to be based on the sales volume in Canada, on the increasing market potential in Canada as opposed to what it might be in the United States. It is generally considered that over the next five or six years the Canadian market will grow at a faster rate than the American market.

The Chairman: I think the point I am trying to make, partly for the record and partly for my own clarity of thinking—because I want to be sure I am working on proper figures—is that in 1965, again if you do not have this line of distinction between the two parts of the industry, we had about six per cent of the North American market. If you take the North American market as being eleven parts, ten parts American and one part Canadian, we had about six per cent of that total. We now have about 12 per cent of that total. To that extent it would appear to have been of great benefit to us. What I see quite clearly from your evidence and from what we have been reading recently is that there is a serious problem with parts manufacture. However, I think it is dangerous for the Canadian public to simply read in their newspapers that we have a $2 billion deficit under the Auto Pact, and therefore it must be a poor deal. This is a conception spreading across the country which I think is a dangerous conception. By that I do not mean that we should not try to find a solution to the problem you have come before us with. I had better let you comment on that.

Mr. Lavelle: I would concur with your remarks. We have always said, and I continue to say, and our industry says, that we do not want to abolish the automotive agreement. It has been beneficial, and the benefits are evident. Going back to 1964, what has to be considered is that there was virtually no deficit in the parts trade then, because the Canadian industry was supplying parts for Canadian assembly due to the tariff.

The Chairman: Because we had a protected market.

Mr. Lavelle: In real terms, if you look over the ten-year section of the agreement that deficit has been about $13 billion. In spite of that the agreement has been beneficial in respect of the points you have made.

The Chairman: Do you agree that our ability to increase our share of the overall market in these ten years has been in large part because of a rationalization of the North American industry; in other words, an ability by parts manufacturers in Canada, as well as the auto vehicle manufacturers in Canada, to have longer and larger production runs of fewer items for a larger market, rather than short production runs of many more items for a domestic market only?

Mr. Lavelle: As it has affected the cost of the vehicles, I would agree with you, that aspect of it has been beneficial; the differential in prices has gone down in the Canadian industry; therefore, presumably the cost of cars is more attractive to the consumer.

The Chairman: But do you disagree with the statement that that very rationalization must also have had a bearing on our increasing our share of the total market in North American from 6 per cent to 12 per cent?

Mr. Lavelle: I would agree; I think it is a factor. I would agree it is a factor in the growth of the Canadian market.

The Chairman: But a substantial factor.

I now come to one recommendation you made for curing your problem with reference to parts, which is that Canada should impose a Canadian content requirement on Canadian parts going into vehicles manufactured in Canada. At least, I wrote that down at the time, and I believe that was your recommendation. Would that not by definition destroy the very rationalization we were speaking about a moment ago that has had the effect of, first, as you agree, reducing the differential in car prices to the Canadian consumer, and secondly, assisting us in securing a much larger portion of the overall North American market?

Mr. Lavelle: I would respond in this way. First of all, our recommendations are that we prefer to see the process of the automotive agreement renegotiated on the basis of the arrangement that we now have. In other words, the last requirement we would like to see put into the automotive agreement is a content regulation of the type you are talking about, and I will just clarify that in a minute.

The Chairman: You say the last thing?

Mr. Lavelle: Yes.

The Chairman: I am sorry; I thought you were advocating it.

Mr. Lavelle: No. We say we would like to have a negotiated settlement between Canada and the United States which would reduce the deficit on an agreed basis; that we would like to see some protection in the agreement based on jobs, research and development and investment; and that we would like to see the automotive agreement, and all bilateral agreements between the two countries, overseen by some sort of international commission, or whatever it may be, where there is constant consultation. Beyond that, if we cannot reach some agreement with the United States on that basis we say that content regulations should be considered.

The Chairman: That is only a final step?

Mr. Lavelle: That is right. We are not saying that in a restrictive sense. We are saying that content regulation could be imposed on the vehicle manufacturers, whether the vehicle is manufactured in Canada or in the United States. In other words, we are not in any way saying we

want to restrict or eliminate the rationalization process which is taking place between the two countries in the automotive or automotive parts industry.

The Chairman: I am glad to have that cleared up in my mind. I might say that in the course of answering that question you have answered my next question, which was: Should we not have some form of permanent commission to supervise the Auto Pact, not unlike the IJC which supervises our water boundaries and so on? You have answered that in the affirmative.

Mr. Lavelle: Perhaps I could just elaborate on that. I think this is one of the crucial points in this international trade agreement with the United States. The inability at any time to redress differences or imbalances has been one of the problems that has brought the situation between Canada and the United States to the point where it is now. There is no opportunity to make representations or make changes without it becoming an international incident. A regular committee where certain things could be done and adjusted on a day-to-day basis would certainly overcome that.

The Chairman: Where you could go and make your representations, with a permanent secretariat on an ongoing basis.

Mr. Lavelle: That is right.

Senator Connolly: What machinery is there now? Do they have to reopen the whole negotiation to get consultation?

Mr. Lavelle: I would think not. A series of meetings could take place. For instance, in 1970 there was an international statistics committee formulated which came to some agreement on what the figures should be in both countries, so there was a renegotiation of the agreement at that time. There could be agreement between the two countries which would change the function of the agreement without renegotiating it.

Senator Connolly: As I understood the discussion the other day in connection with defence sharing, there is provision in that agreement to the effect that the fiscal effects on both sides of the border should be roughly equal; in other words, I should be as profitable to Canada as it is to the United States. I have forgotten so much about the automotive agreement; however, that concept was never included in the automotive agreement, as such, was it?

Mr. Lavelle: The only definition, senator, of anything of that nature is in the language of the fair share concept. Presumably it means that to some degree, but it was never defined in terms of profits or production or anything else. Of course, the safeguards and the other items in the agreement were meant to try and maintain a certain degree of activity in Canada.

Senator Connolly: In effect, therefore, that same concept did apply to the automotive agreement but perhaps they did not try to implement it as fully as they do, apparently, under the defence sharing agreement.

The Chairman: Senator Connolly, could I interject that I believe you will find that fair share of balance is specifically spelled out in the defence sharing agreement and not in the Auto Pact; am I not correct in that?

Senator Connolly: That was my impression and that is why I asked the question. You would like to see something like that developed?

Mr. Lavelle: Yes.

Senator Connolly: Now, my next question may be somewhat unfair but suppose, for the sake of argument, you had a clear run at the renegotiation of this agreement in respect of parts only—I do not say this is a feasible kind of question to ask—what are the main points that you would be seeking to achieve? Is that unfair? It is more or less a summary of your argument I am asking for.

Mr. Lavelle: I could answer that question, Senator Connolly. I would say the first thing we are looking for is a definition or a reduction in the automotive trade deficit, the deficit in parts between Canada and the United States, down to some reasonable level.

We have never said that there should be a balance in trade. We are saying it should move downwards. It could be controlled on the basis that, if in one year it goes above a certain figure, then the automotive company would be given a period of time to bring it back into line.

Secondly, that instead of looking completely at the trade figures, we should move the emphasis of the agreement and the evaluation of it into areas such as jobs, research and development, investment. There should be some understanding that a certain portion of the investment by the motor vehicle company should come to Canada, based on market share; that research and development should be done in this country, so that we can foster new developments and new technology.

Thirdly, I would say that the important concept, which we talked about just a few moments ago, is that there be some international body which could affect the changes in the automotive agreement when it got out of line, or if the economy changed, or whatever the case may be so that there would be an opportunity to redress some of those differences, on a continuing basis.

I would say those are the three main points. We have stated, of course, that we would like to see the automotive agreement as a bilateral document between Canada and the U.S.

Senator McElman: Getting back for a moment to the protection we have under the agreement pertaining to Canadian content regulations for the assembly plants, how do the assembly plants meet those provisions when they are now bringing in from Brazil and Mexico?

Mr. Lavelle: One of the problems with the automotive agreement has been, of course, that the transactions between the vehicle manufacturers and the Canadian government are confidential. We have received assurances from the government that they are meeting the requirements of the agreement, but we do not know that to be the case. Therefore, that question is very difficult to answer, Senator McElman, because it is a secret arrangement and maintained on that basis.

Senator McElman: Perhaps it is something we should be probing further, Mr. Chairman.

Senator Laird: Do you run into this at all, as with the textile industry, the problem with trans-shipment, where the goods are coming from one country to another which then moves them on to the third country? By way of parallel, for example, Korea, which exports to here but is restricted by a quota, ships to Hong Kong and gets rid of the product that way. Do you have that problem at all?

Mr. Lavelle: There is evidence of that. There is a good deal of this going on at the present time, under the Automotive Agreement, where parts are brought into Canada from the United States and are shipped out as vehicles but, in effect, are really knocked down vehicles, unassembled vehicles.

Canada may have some input, in terms of some parts that go into those cars, but very little. There is a certain amount of trans-shipment that goes on.

Senator McElman: Indeed, there would be the opportunity for the United States then of importing component parts from Brazil and Mexico and moving them into Canada as a U.S. component. With the prediction you have made for 1980, this, indeed, would have serious consequences.

Mr. Lavelle: No question about it.

The Chairman: As a supplementary to that, Senator McElman, would not the United States, by the same token, have a major concern that, because they have done this as a bilateral action, whereas we have done it as a multilateral action, we would be the pipeline for this into the American market?

Senator McElman: Yes.

The Chairman: I would think they would be as keen as we possibly should be to see if we cannot bilateralize our situation in Canada with the United States.

Senator McElman: On the other side of the coin, going back to Volvo, is it not the case that Volvos sold into the U.S. meet a tariff restriction on the assembled parts of that vehicle, when they go into the U.S. from Canada?

Mr. Lavelle: There is a provision which states that any vehicle that enters the United States must have 50 per cent North American content. I do not know the status definitively about what happens on the Volvo cars that go from Canada to the United States, but I would assume they are not paying duty on those cars because they can meet the requirement of 50 per cent North American content based on their cost of production in Canada.

Senator McElman: They meet the 50 per cent, then, through labour content rather than component content?

Mr. Lavelle: Yes.

Senator McElman: That is very interesting.

Mr. Lavelle: Senator, I should make it very clear that I am not privy to what Volvo does in terms of their production, or what percentage of their parts are imported or what percentage is purchased in Canada. I am aware of the fact that they do ship cars into the United States duty free. Therefore, they have a 50 per cent North American content level.

Senator McElman: Up to this point in time the parts from Canadian component manufacturers going into Volvo were very few.

Mr. Lavelle: They have claimed that there is up to 50 per cent Canadian content in their vehicles. How they arrive at that figure, I am not sure. This is one of the issues that came up when the Ontario government eliminated the sales tax on vehicles that were produced in North America. Volvo did qualify originally and it was expanded to meet the imported cars as well.

Senator McElman: This content information, as you have suggested before, is confidential to the government.

Mr. Lavelle: It rests within the confines of the Department of Industry, Trade and Commerce.

Senator McElman: A new area of exploration, Mr. Chairman.

Senator Connolly: Mr. Lavelle, you talked about the importation into Canada of parts made in developing countries such as Brazil, Mexico and Venezuela. Would you describe what the situation is in respect of original equipment parts first under the Auto Pact?

Mr. Lavelle: Certainly. In 1964, when the agreement was signed, the multilateral nature of the agreement provided that the bonafide vehicle manufacturers could import parts duty-free from anywhere in the world.

The Chairman: That was the Canadian side.

Mr. Lavelle: That was the Canadian side. The U.S. did not follow that route. Do you want me to go on about the after-market?

Senator Connolly: No, finish dealing with the original equipment first.

Mr. Lavelle: Essentially, any part that Ford, General Motors or Volvo, or anybody, brings into Canada can be brought into the country duty-free if it is original equipment.

Senator Connolly: And that has always applied throughout the term of the agreement.

Mr. Lavelle: That is right. It has always been applied, and it has allowed the vehicle manufacturers the flexibility to import parts from anywhere for their production process, no matter where they come from.

In 1974, on July 19—and we know the date very well—the government extended the general preferential tariff to a number of developing countries. The government did this on an across-the-board basis without exemption. They then permitted anyone to import into Canada from those developing countries after-market and original equipment parts duty-free.

Senator Connolly: Heretofore the after-market parts had been dutiable.

Mr. Lavelle: That is correct, at a rate running between 15½ per cent to 17 per cent.

Senator Connolly: I think that is the answer to the question. Thank you.

Mr. Lavelle: I would go on, senator, if I may, with the opportunity you have given me. One of the problems with the general preferential tariff in Canada's move to adopt it is not so much that we are concerned at the present time but that the future prospects concern us with respect to the after-market. We are also concerned that in Canada we took a much more liberal attitude towards the general preferential tariff than they did in the United States. In the United States there is a series of quotas being applied on parts coming into the country, or any other item, based on what share of the domestic market it takes and based on the country of origin. For instance, none of the OPEC countries are allowed to ship parts into the United States duty-free. There is a series of inquiries that take place in the United States by the U.S. government to determine whether a particular industry is import sensitive. If it is import sensitive, then that duty is not reduced. In Canada, the brunt of the responsibility lies on the industry to claim injury in its domestic market and, presumably, you go to the anti-dumping tribunal to make a case.

Senator Connolly: We have had that in the textile inquiry in another committee here.

The Chairman: Are there further questions, honourable senators?

Senator McElman: If the 15 per cent tariff against importation into Canada were removed today, would you expect that the approximately 6 to 7 per cent differential in unit cost would disappear rather quickly between Canada and the U.S.?

Mr. Lavelle: There is a sales tax which is involved from the Canadian point of view. There would have to be a wholesale adjustment, senator, in the kind of rationalization process taking place on a North American basis. What I am saying is that the differential is a reflection of some of the safeguards built into the agreement in terms of production; therefore, if the safeguards were eliminated and the total rationalization process allowed to take place on the vehicle side, presumably the costs would decline in Canada, and there would be no need for the duty.

The Chairman: Honourable senators, unless there are further matters you would like to pursue, I think we might adjourn. Before doing so, and before thanking our witness, since his particular branch of this industry is in a difficult situation at the moment, and since I know that he and his companions will not rest on their oars with regard to their efforts to persuade government to take action on their behalf, I thought I would make one point to him.

What I want to say is that we are studying trade between Canada and the United States in the largest possible context of the total movement of goods and services back and forth between our two countries, which will take us a considerable length of time. The Auto Pact is a very important component of that total, but we are not making a study just of the Auto Pact, and will not be coming down with immediate recommendations to assist you, though we will certainly have something to say on the subject when our report does come out. However, we have a long way to go, it will be a lengthy study, and it will be some time before our second volume is published. I just wanted you to have that in the proper context; that is, that we are studying not only your problems, in order to be of immediate assistance to you. However, your evidence here today has been most helpful and most useful, and we thank you very much for attending before the committee.

Senator Connolly: Mr. Chairman, this industry is so important that perhaps it might be appropriate for you, as chairman, when the transcript is available, to write a letter to the minister, enclosing a couple of copies of what has been said here this morning, since our recommendations in respect of the subject matter may not be immediately available, and certainly a transcript of the evidence might be useful to the officials who have to deal with it.

The Chairman: I think that is a very helpful suggestion, Senator Connolly, and if the rest of the committee agrees, I will see that that is done.

Hon. Senators: Agreed.

Mr. Lavelle: I wonder if I might make a comment, Mr. Chairman, before you adjourn? I would like to respond to what you said. I fully and completely understand the nature of your study and your report, and I acknowledge the importance of the report you issued not too long ago. I can only say that, from the point of view of the auto parts industry, the interrogation which has gone on of the Department of Industry, Trade and Commerce over the last two or three weeks represents probably the first time in a long time that the automotive agreement has been dealt with in such depth and detail, and from that point of view these sessions have been most useful. I would therefore like to say, on my own behalf and on behalf of the association, that I appreciate very much the opportunity of coming before the committee and particularly of being in the same room once more with Senator Connolly, for whom I once worked, and with the other senators whom I have got to know.

Senator Connolly: You worked for these other fellows more than you worked for me!

Mr. Lavelle: Well, Mr. Chairman, I certainly appreciate this opportunity, and your study as a whole.

The committee adjourned.

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FIRST SESSION—THIRTIETH PARLIAMENT
1974-76

THE SENATE OF CANADA

PROCEEDINGS OF THE
STANDING SENATE COMMITTEE ON

FOREIGN AFFAIRS

The Honourable DONALD CAMERON, *Acting Chairman*

Issue No. 32

THURSDAY, APRIL 29, 1976

Thirtieth Proceedings Respecting:

Canadian Relations with the United States

JUN 2 - 1976
UNIVERSITY OF TORONTO

(Witnesses: See Minutes of Proceedings)

21503—1

THE STANDING SENATE COMMITTEE ON FOREIGN AFFAIRS

The Honourable George C. van Roggen, *Chairman*

The Honourable Allister Grosart, *Deputy Chairman*

and

The Honourable Senators:

Asselin	Lafond
Barrow	Laird
Bélisle	Macnaughton
Cameron	McElman
Carter	McNamara
Connolly (*Ottawa West*)	Rowe
Croll	Sparrow
Hastings	Yuzyk

Ex Officio Members: Flynn and Perrault.

(Quorum 5)

Order of Reference

Extract from the Minutes of Proceedings of the Senate, Wednesday, November 6, 1974:

"Pursuant to the Order of the Day, the Senate resumed the debate on the motion of the Honourable Senator van Roggen, seconded by the Honourable Senator Riel:

That the Standing Senate Committee on Foreign Affairs be authorized to examine and report upon Canadian relations with the United States;

That the Committee be empowered to engage the services of such counsel and technical, clerical and other personnel as may be required for the purpose of the said examination, at such rates of remuneration and reimbursement as the Committee may determine, and to compensate witnesses by reimbursement of travelling and living expenses, if required, in such amount as the Committee may determine;

That the papers and evidence received and taken on the subject in the preceding session be referred to the Committee; and

That the Committee have power to sit during adjournments of the Senate.

After debate, and—
The question being put of the motion, it was—
Resolved in the affirmative."

Robert Fortier,
Clerk of the Senate.

Minutes of Proceedings

Thursday, April 29, 1976
(38)

Pursuant to adjournment and notice, the Standing Senate Committee on Foreign Affairs met at 9:35 a.m. this day.

Present: Honourable Senators Cameron, Carter, Connolly (*Ottawa West*), Flynn, Lafond, Laird, McElman, McNamara and Rowe. (9)

Present but not of the Committee: Honourable Senator Cottreau.

In attendance: Mrs. Carol Seaborn, Special Assistant to the Committee; Messrs. Robert Robichaud and Bill Neil from the Library of Parliament, Research Assistants to the Committee; *Also* Mr. Paul Lau, Office of the Special Advisor (Automotive), Department of Industry, Trade and Commerce.

Due to the unavoidable absence of the Chairman and Deputy-Chairman, on motion of Senator McElman seconded by Senator Lafond, Senator Cameron was appointed to act as Chairman of the Committee during this meeting.

The Committee continued its study of Canadian Relations with the United States.

Witnesses: From the Department of Industry, Trade and Commerce: Mr. T. M. Burns, Senior Assistant Deputy Minister (Operations); and Mr. C. D. Arthur, Special Advisor (Automotive), Trade Policy and Planning Group.

Agreed,—That a series of tables, which were submitted by Mr. Arthur, be identified as No. 4 of the Committee's records and be printed as *Appendix "A"* to today's Proceedings.

At 11:56 a.m., the Committee adjourned to the call of the Chairman.

ATTEST:

E. W. Innes,

Clerk of the Committee.

NOTE: *Following the committee meeting Mr. Arthur supplied a "list of countries entitled to general preferential tariff treatment". That list is appended to these proceedings as Appendix "B".*

The Standing Senate Committee on Foreign Affairs

Evidence

Ottawa, Thursday, April 29, 1976

The Standing Senate Committee on Foreign Affairs met this day at 9.30 a.m. to examine Canadian relations with the United States.

Senator Donald Cameron (*Acting Chairman*) in the Chair.

The Acting Chairman: Today the committee is happy to welcome back officials on the subject of the North American automotive industry: Mr. Tom Burns, Senior Assistant Deputy Minister, Operations, Department of Industry, Trade and Commerce; and Mr. Douglas Arthur, Special Adviser (Automotive), Trade Policy Planning Group. We are glad to have these witnesses here again and we will try not to give them too rough a time.

As members will recall, at our meeting on February 26 Mr. Burns and Mr. Arthur gave us a good deal of information on the automotive industry and the auto trade between Canada and the United States. However, there were some questions outstanding as well as requests for further information from committee members. So officials are back today with this information and are prepared to discuss any other aspects of this quite complex subject and to answer any further questions you may have.

I understand that these officials have been ready to come before the committee for some weeks, but for one reason or another the scheduling proved difficult and we were obliged to put them off until today. I hope this has not inconvenienced them.

In the meantime, the committee was able to hear an industry point of view when Mr. Lavelle, of the Auto Parts Manufacturing Association of Canada, testified. There may be some issues arising out of that meeting which we would like to discuss today also.

I might state that the next meetings of the committee will be Tuesday afternoon, May 11, when Mr. MacAvity of the Canadian Export Association will be the witness, and Thursday morning, May 13, when a group from the Canadian Importers Association will testify.

I wonder, Mr. Arthur, if you would commence your presentation. Senator Laird has agreed to be chief "inquisitor".

Mr. C. Douglas Arthur, Special Adviser, (Automotive) Trade Policy Planning Group, Department of Industry, Trade and Commerce: Thank you very much, Mr. Chairman. As you mentioned, when Mr. Burns and I last appeared before this committee on February 26, committee members had sought further information concerning certain aspects of the Agreement and statistical matters pertaining to imports and exports in Canada as well as in the United States. With your permission I would like to answer those requests for information. We have distributed to the committee members certain tables which, in my view, would best answer some of the senators' queries. I would like to take the members of the committee through these tables briefly, if that is agreeable.

The Acting Chairman: Before you do that, would the committee agree that the statistics which have been submitted be included as Appendix "A" to the proceedings of today?

Hon. Senators: Agreed.

Mr. Arthur: Mr. Chairman, the first tables I would refer to are tables 1(a) and 1(b), which provide a breakdown of automobile imports and automotive parts imports into the United States from all sources including Canada.

Table 1(a) covers the dollar value of imports of automotive parts into the United States from all countries. United States imports of automotive parts from Canada increased from $49 million in 1964 to $2.046 billion in 1975, which is 40 times the dollar value prior to the Automotive Agreement. The second largest exporter of parts to the United States is Japan.

Mr. Chairman, I would direct the Senators' attention to table 1(a). The imports from countries other than Canada, with the exception of the column "Others", are from those countries which export finished vehicles to the United States as well. While the imports statistics are not sufficiently precise to ensure that these figures represent only OEM parts or only replacement parts, I think one may assume that in large measure the imports from countries such as Japan, the United Kingdom and West Germany are service parts and therefore the Canadian share of the OEM market into the United States is a substantially higher percentage.

Table 1(b) covers the same imports statistics, but in percentage terms. Canada's share of U.S. imports increased from 48 per cent in 1964 to a high in 1969 of 80 per cent. It then declined to 65 per cent in 1974; and has since increased to 71 per cent in 1975.

I would again remind you that these are largely original equipment parts and that the imports statistics cover both imports and aftermarket, so that the Canadian share of the U.S. market for original equipment is higher than that percentage would indicate.

Tables 1(c) and 1(d) cover united States imports of finished motor vehicles from all sources. Canada's share of these United States imports, in dollar value terms, has increased substantially since the Automotive Agreement, representing 49 per cent in 1975.

Mr. Chairman, I would like to return for a moment to table 1(a) and refer to the imports shown on the table as "Others." We have broken down, for your benefit, the imports included in that "Others" category. You will note that the imports from Brazil, Mexico and Venezuela, which were matters raised before this committee on previ-

ous occasions, in total represent 6.5 per cent of United States imports in 1975. That is not a significant percentage, Mr. Chairman.

Table 1(e) is a statistical summary of Canadian imports of automotive parts and accessories from all countries, including the United States, Mexico, Venezuela and Brazil. Although not requested by the committee, this table has been submitted in order that you may make a comparison of the import situation in Canada with that in the United States. Total imports from the United States amounted to 95 per cent of our total imports in 1975. Parts imported from countries other than the United States have been fairly stable and accounted for 5 per cent in 1975. Of this 5 per cent, imports from Mexico accounted for 0.14 per cent and from Brazil, 0.82 per cent. In 1975, Mr. Chairman, imports from Brazil into Canada did increase substantially, although in dollar terms as a percentage of our total imports it is very small. These imports are ones we are keeping a watchful eye on. We are following the trends and we can assure the committee that in the event these imports should increase substantially, we would want to know the reason why from the companies, and consider what, if any, action might be taken.

Mr. Burns, do you wish to add anything to that?

Mr. T. M. Burns, Senior Assistant Deputy Minister, Operations, Department of Industry, Trade and Commerce: Just to add a little to that, Mr. Chairman, at an earlier meeting there was some discussion of the influence of the generalized system of preferences which has been available to imports from developing countries and which provided a third reduction either off the MFN tariff rates or the old British preferential rate, whichever was the lower. This applies to a wide variety of products coming from the developing countries.

It is part of the policy position of the government, which is similar to the policy position of most of the industrialized world, to provide better access to the products of the developing world as part of the general north-south accommodation.

In the Canadian context it has been made clear by the Minister of Finance, who is responsible for tariff matters, that if Canadian industry finds itself seriously injured as a result of the reductions which have taken place because of the application of this new column in the tariff, the Generalized Preferential Tariff, the government is prepared to look at cases of injury. In fact, there is a formal interdepartmental committee charged with that responsibility which has already examined a number of complaints from Canadian industry. The government expects that committee to report to it on what is occurring in the cases brought by Canadian industry in relation to injury that might be occurring as a result of imports from the developing world.

Experience so far has been that there have been one or two cases where the government has come to the conclusion that the continued extension of a generalized system of preferences would seriously injure the Canadian industry involved, and the government has withdrawn that preferential tariff for those particular products.

It is important to recall that the generalized system of preferences is not a contractual system. It is comprised of each industrialized country that has engaged in this, and it is really the whole of the industrialized worl which has set up a system of this kind. It has been set up on a unilateral basis, initially for a period of ten years, so that we are not involved in the kinds of contractual arrangements that are typical of our undertakings in the GATT. Therefore, it is open to Canada to amend these; but, of course, this is one example of an area where, intrinsically, policies are not entirely consistent with one another. One has, of course, the important industrial development policy of the government. On the other hand, there is an equally important policy initiative that has been expressed by the government at the highest levels, of wanting to make a contribution to the developing world on what is, I think, universally accepted as a better system than a continuation of an aid relationship, to provide an opportunity for the developing of an economic trade relationship.

I thought it might be useful just to make that general observation in relation to the generalized system of preferences.

Senator Carter: I am afraid I missed the early part of what you said. You say we do not have any contractual arrangements. Do we have a special tariff arrangement for these countries?

Mr. Burns: Yes, we do.

Senator Carter: Outside of GATT?

Mr. Burns: Yes. The developing world asked, in the UNCTAD context, for a preferential tariff arrangement with the industrialized countries, covering semi-manufactured goods, and each industrialized country has put in a system which provides such preferential tariff treatment for semi-manufactured and manufactured goods from the developing world. These are not all identical systems. Our system is a system which does not cover everything. There are some exceptions, which are, by and large, limited to areas where it is agreed internationally that there are rather special circumstances. I refer particularly to the textile sector. The formula which was used, however, to calculate the rates of duty that would apply under this preferential scheme, were a reduction of one-third on the most-favoured-nation tariff, or the extention of the British Commonwealth tariff—the preferential tariff—to all developing countries.

Senator Carter: With regard to the automotive parts, say, from Brazil, manufactured there by subsidiaries of U.S. firms such as Ford, Chrysler and General Motors, that we use for assembly purposes, are we bringing them in from Brazil rather than getting them from the United States?

Mr. Burns: As I understand it, Senator Carter, the majority of the imports that are identified in these tables as coming from Mexico and Brazil are coming from companies that are affiliated with the major motor vehicle manufacturers.

Senator Carter: They do not raise any objections to that?

Mr. Burns: No.

Senator Laird: By the way, Mr. Burns, what machinery have we available, legislatively speaking, to deal quickly with a situation which might arise requiring fast action? Must we change our legislation to rectify the situation? This becomes very fundamental.

Mr. Burns: Senator, the generalized system of preferences was introduced as part of a budget within the last

two years, though I cannot remember the precise year. I can get you the actual detail, of course.

If we make a tariff arrangement in the GATT, we then bind ourselves contractually to maintain that rate, and we can only change it under rather clearly defined circumstances. Normally we have to provide equivalent better access for something else if we want to raise a rate for a particular product. That is the general case in terms of the GATT, because this preference for developing countries is a unilateral action by the individual industrialized country: it is open to them to change this arrangement unilaterally, without offering compensation to the beneficiaries.

Senator Laird: Right; but can we do that by, for example, order in council?

Mr. Burns: Yes, sir. As I understand it, there is no need for legislation in these matters.

Senator Laird: That is what I am getting at. You mentioned textiles a moment ago. A situation that you undoubtedly know about exists in that area. There is the Geneva Agreement—the ITA—under which you have machinery available if you want to move fast, plus the existence of the Export and Import Permits Act. But so often it is a case of the barn door being locked after the horse is stolen unless you get quick action, and that is why I was trying to get you to deal with the mechanics of what would be done if there was a finding of disruption of Canadian business.

Mr. Burns: Yes. It is important to remember that in the textile situation there are two sets of circumstances that are quite different from the circumstances that apply in terms of this preferential scheme generally. One is that our tariff rates, by and large, are bound in the GATT against increase, so if we wanted to change the tariff on a permanent basis we would be obliged to go through the GATT procedures, which generally either require us to compensate in terms of offering better access for another product, or accept retaliation from the trading partner principally affected.

In addition, of course, there is a particular GATT agreement relating to trade and textiles to which all the major countries, both importers and exporters, are signatories, and which permit certain actions, based on determinations of injury—quotas, and all that sort of paraphernalia that you are aware of.

No such arrangement exists as far as the generalized system of preferences is concerned. There, Canada is free, theoretically, to eliminate that in toto tomorrow; but obviously there are policy considerations in relation to the preoccupations of the developing world, and Canadian preoccupations with regard to making a contribution to the development of the developing world, that would inhibit us from taking that kind of action.

Senator Laird: Oh yes. Quite so. In another meeting yesterday I pinned down the Honourable Don Jamieson on that particular problem. How to do the right thing, and at the same time not put ourselves in the position where we end up with no resources with which to help the developing countries is of course a very real problem.

Mr. Burns: I am sure Mr. Jamieson talked about the balance that has to be brought to bear, and that, of course, is the case here as well.

Senator Rowe: While we are on that subject, Mr. Chairman, Mr. Burns has been using the term "developing countries", and we all use it, of course; but it suddenly struck me that I do not really know what a developing country is. I know that Bangladesh is supposed to be, and Sri Lanka and Pakistan; but is Brazil? Is Venezuela? In other words, is there a formal list somewhere, perhaps drawn up by the United Nations, of what are considered to be "developing" countries? Or is there a rule of thumb that can be applied? What is a "developing" country?

Mr. Burns: This is a subject that no-one has been able to resolve satisfactorily, I think. Clearly there are a number of countries and there is no doubt that the country you mentioned first, Bangladesh, is one that must be considered to be "developing". From there you grade up, really, to the Brazils and Mexicos of the world.

When the industrialized countries were discussing how to move in this area of offering generalized preferential schemes, it was, I think, agreed generally that these would be available to countries that declared themselves to be developing countries. I think, over time, it has become plain that there are countries at the margin of the situation, that we are going to have to begin to think of as developed countries rather than developing countries.

You can, I think, find a whole series of indicators with regard to this. One is the GNP per capita of a particular country. Is there some sort of ceiling above which everybody is a developed country and everybody below is a developing country? Internationally it has never been possible to develop a precise and complete list showing which are the developed and which are the developing countries of the world. But that really applies on a margin of perhaps half a dozen countries, I would think.

Senator McElman: But even within our own competence in Canada, no doubt CIDA and the Department of Industry, Trade and Commerce would provide different lists.

Mr. Burns: That is correct, senator.

Senator Rowe: Under one agreement a country might be a developing country while under another it might not be.

Mr. Burns: We can supply you with the list of countries to which Canada applies the generalized system of preferences, if that would be helpful. In the regulations implementing the government's decision to apply preferential tariff systems we have listed the countries that are eligible.

Senator Rowe: Whom do you mean when you say "we"?

Mr. Burns: Canada.

Senator Rowe: So the answer to Senator McElman's question is that there is one list which applies generally for Canada?

Mr. Burns: Yes, there is.

Senator Rowe: So, in fact, the Department of Industry, Trade and Commerce could not have one list while another department might have another?

Mr. Burns: I think what Senator McElman was saying was that there might be different views in different departments as to which in a developing country and which is not. But if you ask me the formal question, then the Government of Canada, in implementing this preferential tariff system, has set out in detail the list of coun-

tries to which it applies, even if only for the ordinary practical purpose of allowing the customs officer at border control points to charge the correct rate of duty. And, Mr. Chairman, if you would like a list of those countries to circulate to the members of the committee, we would be very glad to supply you with one. NOTE: *See Appendix "B" to these proceedings.*

Senator McElman: But that is not the same list as is used by other departments when it comes to providing aid to developing countries.

Mr. Burns: I think I would not want to talk about CIDA's responsibility, but there are so many of these countries that it is not practical to offer an aid program to all of them, so there is a certain concentration of aid effort.

Senator Rowe: Can you recall how many there are? There were 144 countries under the United Nations. What proportion of that are you referring to now?

Mr. Burns: Well, senator, it is a large number. There used to be in the United Nations a caucus of developing countries which was known as the "Group of 77", but now the number has gone higher than that; I would say it has reached the level of 100, if not higher.

Senator McElman: If I could get back now, Mr. Chairman, to the question raised by Senator Carter about the importation of automotive parts from Mexico, Venezuela and Brazil, he mentioned that he thought that most of these were manufactured by subsidiaries of the Big Four. Is it not a fact that the parts and accessories industries in those countries are almost totally subsidiaries of the Big Four? And is it not also the case that independents are almost non-existent?

Mr. Arthur: A good deal of the investment in the automotive industry in these countries is by the Big Four, but a number of the multinational parts manufacturers also have facilities in these countries.

Senator McElman: But the independents which would be truly nationals of those three countries would be almost non-existent, would they not?

Mr. Arthur: I am not totally familiar with the automobile industry in these countries, but I would say that a very large percentage of the vehicle assembly and parts production undertaken in these countries is by subsidiaries of the multinational motor vehicule manufacturers or parts manufacturers. There are companies represented other than those of the United States. For example, there is Volkswagen, Renault and Volvo.

Senator McElman: Mr. Chairman, I think it is important that the record should show that while this may not yet be categorized as a pipeline, it could very readily become such.

Senator McNamara: Are you satisfied, from a Canadian point of view, that other industrial nations are approaching this and are granting exemption to the same extent that we are, or are we front-runners in this?

Mr. Burns: I am sorry, senator, that I do not have with me as much data as I would like to have to answer that question, but in the international discussions relating to the development of schemes of this kind it would be left to the individual industrialized country to make its own judgment about the kind of scheme which it would implement. I think each country has a slightly different kind of scheme. The American scheme, for example, provides for free entry for all the items eligible for the generalized preference scheme going into the United States. But then there is a rather complicated formula which looks at the volume of importation from the developing countries in each of these categories, and at a certain point of time, either in relation to an individual exporting country or to the group as a whole, the free entry becomes modified. So they have a scheme that, I suppose, has a kind of mechanical means of determining when the volume of imports reaches a level which prima facie provides some kind of injury to the domestic industry. But in our scheme we did not go to free entry, except where the British preferential tariff happened to be historically at a free entry position. We only came down one-third off the MFN rate, and then an interdepartmental committee, chaired by the Department of Finance, is responsible for looking at complaints made by individual Canadian industries who feel themselves to be adversely affected by an increase in imports under this scheme. As I said earlier, there have been one or two cases where the general preference tariff has been withdrawn because it has been determined to the government's satisfaction, that the flow of imports was in fact causing material injury to Canadian industry. The European system is a different system again.

Senator McNamara: Well, to put my question again in another way, are the developing countries, or any number of them, protesting that Canada is not as generous as some of the other industrialized countries? Do they like the American system better than the Canadian system?

Mr. Burns: I am not aware of any really substantial complaints by the developing countries, but I should like to leave myself a little leeway on that because I do not follow this as closely as I might, and later I might want to write you a note modifying my answer.

Senator Rowe: I suppose our generosity would vary from one developing country to another. I got the impression last year in two or three countries in the Far East that they regard Canada as the most generous country in respect of foreign aid generally. But this attitude, I take it, would vary from one country to another. We might be very generous with Pakistan, for example, while Bangladesh might consider us as being pretty parsimonious.

Mr. Burns: I think, senator, if you are looking at our overall aid programs or our overall position vis-à-vis the developing countries, one would have to look at what our bilateral aid budget is to a particular country under CIDA, and what contributions we make to multilateral institutions related to that particular country.

With respect to the point under discussion now, the degree to which there is an indigenous manufacturing industry which can take advantage of the preference scheme, if one looks, for example, at some of the landlocked African countries, the preference tariff scheme is of very minor significance because they just do not have an industry which could take advantage of that type of arrangement. This is because the basic agricultural products coming from the tropical world are now, by and large, free of duty coming into Canada in any case. Therefore, countries such as Chad, Mauritania and others today will not find, in my opinion, very much value in the preference tariff scheme.

Senator Laird: Mr. Burns, following up on Senator McNamara's theme, during our meeting of April 8, Mr.

Lavelle being the witness, the evidence was that in the case of automotive parts, they come into Canada duty-free from, for example, Brazil and Mexico, whereas the United States retains a tariff barrier on the importation of those parts from the same countries.

Mr. Burns: This really flows, senator, from the proposition that there was no common scheme introduced by the industrialized countries. Each industrialized country looked at the total of what it might do and devised a scheme that seemed to fit its particular circumstances. I have not looked at this in detail, but I am sure that I could find situations in which the United States has offered a preference tariff on a particular product, which we may not have done. It may also be relevant in that context to compare the MFN tariff rates on automotive parts as between Canada and the United States. In the United States the regular tariff on automotive parts is of the order of four per cent, whereas our MFN tariff, as you know, is of the order of 15 per cent.

Senator Laird: You will understand why the situation I mentioned is a matter of considerable complaint by the parts manufacturers in Canada as, of course, is apparent from the evidence of Mr. Lavelle on April 8.

Mr. Burns: Yes. Mr. Chairman, I have no argument at all with the proposition that in the long run to continue free entry for automotive parts may raise substantial difficulties. However, I also draw your attention to Table 1(e), which shows that Mexico, Venezuela and Brazil together represent one per cent of total Canadian imports of automotive parts. I suppose every percentage point is of importance, but if that were 25 per cent I would agree that it is a current problem. One must recognize, also, that if we look at four or five years there is a certain increase here, but it is open to the automotive parts industry to demonstrate to the government that this level of imports represents serious injury to them. The government has a machinery to examine these complaints and make recommendations to the government with respect to them. I believe that the record is clear that where there is substantial injury, the government has sympathetically considered the proposition of removing the generalized preference tariff.

Senator Laird: That might solve their problem then.

Mr. Burns: I am speaking in very hypothetical terms, just as an official.

Senator Laird: Of course on matters of policy we are not pressing you, ever.

Mr. Burns: These are questions that ministers at the end of the day have to decide. However, if we add the 0.14 per cent, the 0.01 per cent and the 0.82 per cent and use that to demonstrate serious injury, I hope you would agree that the case would not be completely airtight.

Senator McNamara: The American percentage is much higher for those countries. Reference to Table 1(b) indicates that it is 0.9, 4.2, 0.4, 0.3 and 0.7, so it is five times percentagewise greater than Canada.

Senator Carter: While we are discussing this point, I do not believe the witness has completed his presentation of the table. I do not wish to prolong the interruption.

Mr. Burns: I did not know we would be discussing the general preference scheme either, senator.

Senator Laird: I also believe it is unfair. As a matter of fact, I am afraid that this is characteristic of a Senate committee.

Mr. Burns: Mr. Chairman, we have no objection and we enjoy this discussion.

Senator Carter: I am quite willing to reserve my questions until later. They follow on Mr. Burns' remarks with regard to the injury to local manufacturers by reason of these imports.

The Acting Chairman: In terms of the record it will be as well to have the whole subject in one block.

Senator Carter: Following on the statement made by Mr. Burns, if we refer to the top part of Table 1(e) we see that our total imports have increased by approximately $500 million per year. I suppose part of that would result from inflation.

Mr. Burns: Yes.

Senator Carter: The other part would be made up by actual volume, which would make it 50-50. Therefore we are considering approximately five per cent of $500 million per year. If we refer to the line further down, we will see that our total imports from countries other than the United States fluctuated between five and six per cent. I do not know whether there is a formula to keep it at that level or whether it just happened. However, the table indicates that in 1975 the total decreased to the five per cent level rather than the 6.7 per cent in 1974. Our imports from Brazil have almost quadrupled. If that is a pattern that is going to develop, there could very well be injury.

Senator Laird: That's for sure.

Mr. Burns: Mr. Chairman, perhaps I might just add one factual point, then come to Senator Carter's substantive point. In the percentage part of this table at the bottom, "Total imports from countries other than the United States of America", the totals of 5 per cent, 6.7 per cent, 4.8 per cent, 5.6 per cent, 4.7 per cent and 5.7 per cent include, as they do in the similar tables relating to the United States, the level of service parts coming in from Japan, European car-supplying countries, and so on. This, I believe, is not relevant to the discussion we are having about the Canada-U.S. automobile agreement, because they are really just the regular flow of parts that are needed to repair Volkswagens, Datsuns, and so on.

To come to the substantive point, of course, in percentage terms, to jump from 0.23 to 0.82 is rather a remarkable jump in a year. But I would hope that you would agree, senator, that 0.82 of, in dollar figures, $39 million out of a total of $4,738,000,000 is still a pretty small percentage.

Clearly, if in three or four years' time 0.82 translates to 15.4, or whatever figure you want to put, that pattern would begin to demonstrate that there was beginning to be a trade here that might better be dealt with under the regular MFN tariff rates.

The assistance to the developing world by giving them preferential access was really conceived as a means of giving people an initial boost, an initial opportunity. It was certainly the view of most industrialized countries that it should not be a permanent feature of international trade. Indeed, each country has put this system into effect for a 10-year period, and has agreed to consider, at the end of that 10-year period, whether there should be an extension of the system.

But it was essentially thought of as a means of providing an impetus to the developing world, to get into a trading situation rather than an aid situation; and once these countries demonstrate to their own satisfaction, and to the satisfaction of the trading world generally, that they are capable of trading on an equal basis with the industrialized countries, then one can foresee the gradual reduction of the number of countries to which the preference system applies, or its elimination at some stage.

Senator Carter: I realize that. I was thinking about Senator McElman's statement about the pipeline. This almost phenomenal increase from Brazil has been made at the expense of what we call the other developing countries. So Brazil is getting more out of it, but the others are standing still. They are not benefiting, because we have only 5 per cent, and it has remained fairly constant between 5 and 6 per cent. Whatever Brazil gains out of the 5 per cent, is that at the expense of the other countries that we are trying to aid, or think we are aiding?

Mr. Burns: I am not sure that one would say that there is some kind of limit of 5 per cent, for example, of imports of automobile parts and accessories from countries other than the United States. Obviously one of the elements that affects that level is the degree to which there are sales of new cars from Japan or Europe, because if, for example, sales of Japanese or European cars begin to expand, obviously the stocks of repair parts and service parts, and so on, will have to increase, and therefore that 5 per cent will go up. We separated out Mexico and Brazil because those were the countries in which the committee was particularly interested the last time we discussed the subject.

Senator Carter: Is that necessarily so, that the 5 per cent will go up—because the volume is going up? It is 5 per cent of the bigger volume. The percentage might not necessarily go up.

Mr. Burns: Yes. I should have used the absolute figures. You are quite right, Senator Carter.

Mr. Arthur: Mr. Chairman, the committe asked if we would do a comparative analysis of imports of motor vehicles and motor vehicle parts into Canada and the United States from major European motor vehicle manufacturing countries and Japan. Tables 1(g) and 1(h) provide that information. The higher percentage of imports of parts in relation to imports of finished vehicles in the case of Canada is indicative of the fact that Canada has had a longer history of imports of completed vehicles from third countries, and that the larger parts imports are primarily to service those vehicles. I may say, that the department is continually discussing with these motor vehicle importers the prospect of having some of the parts supplied from Canadian sources, and in some cases there has been success.

We were asked also to provide information on the Canadian share of the total parts market in North America from 1964 to 1974. Original equipment parts consumption in both the United States and Canada rose substantially in terms of value between 1964 and the early 1970s.

The Acting Chairman: You are referring to table 2(a)?

Mr. Arthur: I am referring to tables 2(a) and 2(b). Table 2(a) covers the production of original equipment motor vehicle parts produced by motor vehicle manufacturers and independent parts manufacturers. It also provides the percentage of the total parts production that is experienced by the independent parts manufacturers.

Members of the committee will note that while the percentage of production by independent manufacturers in Canada has declined—it was roughly 78 per cent in the 1960s, rose at one point to 81 per cent and is now roughly at 60 per cent—this percentage supplied by "independents" in Canada is substantially higher in percentage terms than that supplied by "independent parts manufacturers" in the United States.

When expressed in terms of production as a percentage of total Canadian and U.S. consumption, the Canadian share of the total motor vehicle original equipment parts market in North America has increased from less than 3 per cent in the early 1960s to 7 per cent in 1974. That is table 2(c).

Mr. Chairman, one of the points that we raised at the earlier meeting, and which was expressed to this committee in its hearings of April 8, is the fact that our share of total production of automotive parts in North America was 7 per cent in 1974 and our consumption of automotive parts was approximately 12 per cent. This, as we mentioned, is a matter which we are continually studying and is one of concern.

On the other hand, I think it is important to look at the total trade picture between Canada and the United States in the sense of Canada's share of total North American production, and I would draw the committee's attention to Table 2(d), which is entitled, "Canadian Production as a Share of Total Canada/U.S. Production of Canadian-U.S. Type Motor Vehicles." Honourable senators will notice that in the second-to-last column on the right, Canadian production, as a percentage of total Canada-U.S. production, has risen from 6.7 per cent in 1964 to 13.2 per cent in 1974, and that Canadian consumption of North American type vehicles in 1964 represented 6.8 per cent and in 1974, 9.8 per cent. Those figures relate to motor vehicles as opposed to parts. In relation to parts, the circumstance is reversed.

Senator Carter: In other words, we are exporting that much more to the United States in terms of vehicles?

Mr. Arthur: We have had a favourable balance on exports of vehicles to the United States for some time.

Senator McElman: Yet in the total picture we are in a very bad deficit position currently.

Mr. Arthur: Yes, we do experience an imbalance in total automotive trade.

Senator McElman: And that is attributable almost totally to the imbalance in the parts and accessories category?

Mr. Arthur: That is correct.

Senator McElman: The total picture includes the finished motor vehicles, the original parts, and the aftermarket parts.

Mr. Arthur: Mr. Chairman, during the last meeting there was a discussion on the extent of automotive trade between Canada and the United States, and at that time we were asked, in the absence of the Agreement and on the assumption that the Canadian industry had continued to supply only the Canadian market, what would be the magnitude of the trade imbalance in 1974, projected from 1964 figure.

We have given considerable thought to that question, and it would be interesting if we could get a proper answer to it. I believe it is fair to say that no one would suggest that the Agreement has not been beneficial to Canada. As a percentage of our total trade with the United States in the automotive sector, the trade imbalance in 1964 represented 90 per cent, whereas in 1975 terms it represents 14 per cent. While it is certainly not perfect, I believe it would be fair to say that had it continued at the 90 per cent level, it would be something that could not have been tolerated. It would have been necessary to take some action, and it is interesting to speculate as to what that action might have been. We would hope, of course, that the trade imbalance would be closer to zero.

We were also asked to provide data on the trade imbalance and to equate that imbalance as a percentage of our total trade with the United States in the automotive sector, and in that connection I draw the attention of the committee to Table 3, which provides this information from 1960 through 1975.

Members of the committee asked a considerable number of questions regarding the 15 per cent statutory rate applicable to imports of automobiles, and I will endeavour to answer those questions in a sequence that I hope can be followed. Before doing so, however, I should like to give a little background and put before the committee the circumstance that exists so far as the tariff is concerned.

Automobiles do enter Canada duty-free under the British Preferential Tariff, and if imported other than under the conditions of the Automotive Agreement are dutiable at 15 per cent under the Most Favoured Nation Tariff. This duty applies to automobiles that are imported by individuals and other non-qualified importers. It applies to vehicles imported from third countries, except for limited duty-free imports, by companies who manufacture automobiles in Canada. It would apply to imports of automobiles by a vechile manufacturer in Canada, should the manufacturer fail to meet either of its production requirements under the terms of the Automotive Agreement. The tariff, however, does not form part of the Automotive Agreement. In the absence of the tariff, the arrangements that are designed to ensure certain levels of automotive production activity in Canada would be inoperative.

I believe a factor that must be weighed in considering the possible removal of the tariff is the claim by the Canadian automotive producers that there are inherent additional costs in producing and marketing vehicles in Canada arising from a variety of factors, such as higher costs on both plant and product, lower average productivity, and other built-in factors, including distribution costs, which result in a permanent cost and price differential in favour of the United States. They contend that even complete rationalization of production facilities will not overcome this disadvantage under conditions of wage parity and near parity in exchange rates.

If the removal of the tariff is contemplated, it would be important, I suggest, to weigh the impact of such action on the location of production facilities to serve the North American market and on production and employment in Canada if, as the industry claims, production and distribution costs are higher in Canada.

If the tariff were to be removed in keeping with our GATT obligations—that is, on a Most Favoured Nation basis—third country automobile manufacturers who do not have manufacturing facilities in Canada would be able to import unlimited quantities of automobiles duty free, which would have an impact on automobile prices in Canada and would probably increase the number of automobiles sold in Canada. The major beneficiaries of such action would probably be the offshore suppliers, none of whom, with the exception of Volvo, has manufacturing facilities in Canada. Indeed, it might even reduce the demand for North American produced automobiles.

I suggest that it would be necessary to weigh any price advantage against the prospect of less production and employment in Canada in relation to total automotive demand and the possibility of diminishing investment levels. The downward pressure on prices would be lessened if the tariff were removed preferentially. There probably would be an increase in demand for North American types automobiles. Whether this would benefit Canada in terms of production and employment, would depend on the cost environment in Canada. In this circumstance, one would have to weigh the reactions of our major trading partners.

Another question that was asked in this series on car prices was the effect of the Agreement on the cost to the consumer of buying a car in Canada as opposed to the United States. I would suggest that the consumers in both countries have benefited by the Agreement, although in relative price terms the Canadian consumer has benefited more. The wholesale price of cars in Canada has declined on average in relation to the wholesale price of cars in the United States from a differential of 16 per cent in 1965 to 6 per cent in 1975 in terms of par dollars.

At this point I would refer to Table 4(a), which provides consumer price indexes for Canada and the United States. It may be of interest to the committee that retail prices of cars to consumers in both countries since the Automotive Agreement have experienced modest increases—in Canada less—when compared to the purchase prices of most other consumer items. In the United States the consumer price of new automobiles has risen by 27 per cent between 1967 and 1975, while in Canada the consumer price of new automobiles rose by 23 per cent. In contrast, the consumer price of all items in both countries for the same period rose by approximately 61 per cent.

A further question that was asked at our last appearance related to a price comparison of representative models in selected cities in Canada and the United States. I would refer members of the committee to Table 4(b), which provides five examples, which I trust will meet the committee's request.

Senator McElman: Looking at the first example on Table 4(b), what is the relationship between what I assume is Saint John, New Brunswick, and Philadelphia?

Mr. Arthur: This information was supplied by the motor vehicle manufacturers. We asked them to take cities where they considered they could make a reasonable comparison, and this it the comparison that was provided in this instance.

Senator McElman: I can appreciate the comparison between Woodstock, New Brunswick, and Presque Isle, Maine. However, I fail to understand the comparison between Saint John, New Brunswick, and Philadelphia.

Senator Laird: The same reason, I should think—the distance from the source of manufacture.

Mr. Arthur: That is right.

Mr. Burns: We were a little bit in the hands of the automobile manufacturers. This is a complicated thing to ask them to provide. In the second example, I assume Saint John and Bangor are not too far apart in that kind of sense. There are two examples that are quite close geographically in New Brunswick terms. I certainly accept the reaction that a dealer in Philadelphia is dealing in a different market from a dealer in Saint John.

Senator Lafond: It could also be that one of the equalizing factors is freight, since freight is included. The cost of freight from the manufacturing plant to Philadelphia and to Saint John, New Brunswick, being the same, the comparison is made between them.

Senator McElman: There may be an equalization there, but certainly not on a market basis.

Mr. Burns: I hope you will find the other two examples for some use to you in your particular interest.

Senator Rowe: Somebody cannot make up his or her mind on how to spell Saint John.

Senator Laird: Which one have they got?

Senator Rowe: They have both, but I think they are referring to the same city.

Senator Laird: Is there another one?

Senator Rowe: We like the friends of New Brunswick to spell it S-a-i-n-t.

Mr. Burns: We apologize for that. We are aware of the fact that there are two cities.

Senator Rowe: I was interested in the phraseology used. Perhaps this is almost quibbling too. In talking about the difference in cost you said there was lower productivity in Canada and other built-in costs. I think that was the phraseology you used. Is lower productivity in Canada a built-in thing? Is it a continuous, permanent and fixed thing? I would like to hope that it might vary and would not be built in, that it would not be entrenched in cement for ever more.

Senator Flynn: What do you suggest?

Senator Laird: A horse-whip!

Senator Rowe: Is that lower productivity largely the result of the difference in volume between, say, Detroit and Oshawa or Windsor?

Mr. Arthur: I do not believe we can answer that question directly.

Senator Rowe: I appreciate that.

Mr. Arthur: The question of productivity is one that engages a number of people in an attempt to define how best to measure it, and there is considerable disagreement on how to do this. It does not necessarily mean that the plants in Canada are smaller than those in the Unites States. There could be two plants of similar size, one located in Canada, the other in the United States, the one in Canada being used, in industry terms, for swing purposes; in other words, it picks up the additional market requirement that the other plants are not able to produce, and therefore may have in it, in any particular year, more than one model, as opposed to the same sized plant in the United States producing only one model. That would affect the productivity of the Canadian plant. There are many considerations that have to be taken into account when talking about productivity.

The question of built-in costs is one that the motor vehicle manufacturers identify. To the extent that we understand that term, it relates, in their view, to the question of taxes, and also the fact that some of the materials they require are dutiable and they have to import these. There are a number of things that could contribute to these built-in costs. However, as you suggested, there may be other costs in Canada that are more advantageous, and at some point this would balance off. We are doing a fairly detailed study on productivity, but it is something that is difficult to define. One must look at what the industry is producing in each plant in relation to similar plants in the United States.

Senator Rowe: In other words, to make sure we are talking about the same thing?

Mr. Arthur: That is true.

Mr. Burns: There is one other point, which arises from discussions I have had from time to time with the automobile companies, that might also be mentioned. There are the climatic differences, so that capital costs decrease quite substantially as you move south in the United States. The capital cost of building a plant has some impact here.

Senator Lafond: Capital and maintenance, and you have to heat it too.

Mr. Burns: With energy costs going up, that adds another element to it.

We have not, if my memory serves me right, really gone into the books of the automobile companies to satisfy ourselves of the precise character of these kinds of differential costs. We cannot put our hands on our hearts and say, "There is the differential" in any particular area. What we are reporting today are the results of many conversations with the automobile companies about the question of the differential in price, and what leads to that. These are elements that they all have, in varying degrees, put to us as reasons for this.

Senator Carter: I would like to ask a question, if I may, with reference to Table 4(b), the Canada-U.S. Price comparison. I am referring to the Pinto two-door at Vancouver and Seattle, which are at comparable distances and close together at the same time. There is only a price difference of $281 which is 8.6 per cent. It also says that we have a tax difference of $316 which would mean that the Canadian car, somehow, was cheaper.

Senator Flynn: That is a very interesting point.

Mr. Burns: Mr. Chairman, we can give you a general answer to that but we were going to suggest to you, when we got through the discussion of the pricing, that if you felt that this was an important issue, you might want to consider asking one or more of the automobile companies to come and appear before you. They can do this kind of thing a lot better than we can. You might find that more productive than our giving you second-hand information on these things, which are essentially commercial considerations relating to a rather complex trade.

Senator Laird: All you can do is speculate.

Mr. Burns: The west coast situation is affected more than other parts of North America by the competition

from Japan. I think that is one of the elements you would have to look at.

Senator Carter: Are you saying, indirectly, that competition accounts for this; that the competition from the Japanese cars make them lower their prices?

Mr. Burns: I suppose, Senator Carter, the whole economy depends on competition.

Senator Flynn: "Whole" is a rather broad word to use.

Mr. Burns: I agree with that, senator.

Senator Carter: I am a bit sorry this table did not include transportation costs. It would have meant only one other column. Is there any way of getting that information separately? We could paste it on or mark it in. These cars are transported by heavy trucks now. Very few of them are transported by rail, I would think.

Mr. Burns: A lot more are transported by rail now than there used to be. If you watch the freight trains go by, yo will see they have them stacked up three or four high.

Senator Carter: It makes it all the more important that we should have transportation costs; otherwise we do not know what we are talking about.

Senator Flynn: In any event, that tax difference is the main element of the difference in price.

Mr. Burns: Yes, that is correct.

Senator Flynn: It is normally the main element.

Mr. Burns: Mr. Chairman, one must also take into account that the number of retail customers who pay the prices, in those first two columns, must be miniscule.

Senator McElman: Not only miniscule, but dull.

Mr. Burns: There is also the matter of the trade-in and all of those kinds of effects cannot really be put down on a piece of paper like this.

Dealing with the particular question which Senator Carter raised, I would reiterate my earlier suggestion that the automotible companies themselves being so much better able to cope with questions of this kind—if you want to really go into it in depth—could do it much more effectively than we could.

Senator Carter: This particular example I pointed out does raise questions in regard to your earlier statement on productivity. If the Canadian car is actually cheaper, then our productivity must be just as good.

Senator Flynn: Maybe only in this case though.

Senator Laird: There must be other factors involved, Senator Carter, and what they are, I do not think these gentlemen can tell us.

Senator Carter: I agree, and maybe that is not fair.

Senator Rowe: Speaking of mileage, and I am not all that sure of my geography, would not Lethbridge and Great Falls be fairly close together?

The Acting Chairman: Yes.

Senator McElman: During the discussions we have had, we have talked about the pricing of Volvos on the east coast, where they are assembled, in comparison to Toronto. I see it is not included in the examples. Is the information available?

Mr. Arthur: Mr. Chairman, in light of Senator McElman's interest in the Volvo situation, I did inquire of the company in the terms mentioned by the senator during our last appearance. The reply from the company is highly qualified, in the sense that they are not certain as to the exact model, or the options included, so on and so forth. They also qualify their answer by including the freight figure, as well as whether or not, in the figures presented by you, senator, you included the provincial taxes in Ontario and in Nova Scotia, because I understand there is a difference in the level. Certainly, freight is one that does have an influence on the price in Ontario as opposed to Nova Scotia. It is, I understand, because of an arrangement that the company has with the carriers.

Senator McElman: So, they have not given us any comparable figures of any of their models?

Mr. Arthur: No, sir, but we can provide that for you if it is your wish.

Senator McElman: I think it would be useful to take, say, two of their models and compare them. One of their most popular models is a wagon. Let us take it, stripped, at Halifax, Nova Scotia, where it is assembled, and In Toronto, and then take their top range four-door, without any of the unnecessary accessories . . .

Senator Laird: Like heat?

Senator McElman: Believe me, in Halifax you need heat ten months of the year. I would like to have the comparable price in Halifax, Nova Scotia, to Toronto in such a model. As long as they are comparable, I do not care what accessories they have.

Mr. Arthur: We will be pleased to get that information and forward it to the committee.

Senator McElman: The only other point I want to make there is that you are quite right when you say you have to deal with at least one or more of the Big Four themselves. There is an important word in these tables, and that is "suggested" retail price, which, of course, bears little relationship to the market involved.

Senator McNamara: Just as a point of clarification with respect to the Volvo, did I understand that it would be considerably cheaper in Toronto than in Nova Scotia? Surely freight would be an adverse factor on that. They must pay freight.

Senator McElman: The fact is that it is cheaper for a Haligonian to buy a Volvo in Toronto and drive it back than it is for him to buy it in Halifax. Undoubtedly, much of that has to do with the competitiveness of the Toronto market as related to the much smaller Nova Scotia market. This has little to do, I suppose, with the Canada-U.S. relations, but my complaint is with the pricing structure within Canada.

Senator Flynn: It could be the manufacturer's problem, or policy, rather.

Senator McElman: It is not the manufacturer's problem. It is the consumers' problem; it is the manufacturer's arrangement.

Senator Laird: Mr. Chairman, perhaps we should have the Volvo people before us as witnesses.

The Acting Chairman: It may be that we should have more than the Volvo people as witnesses in order to arrive at the pricing differences. Is it the wish of the committee to have the various companies called before us later on?

Senator McElman: I believe that is already in the books, Mr. Chairman.

Senator Lafond: It is something the steering committee can have a second look at and make the decision on, Mr. Chairman.

The Acting Chairman: Would you continue, Mr. Arthur?

Mr. Arthur: Mr. Chairman, we were asked about the requirements on manufacturers under the automotive program in order to obtain duty-free entry of vehicles and original equipment parts. As Senators are aware, the program was designed to achieve a substantial expansion of production and employment in Canada and to promote competitive efficiency in the industry. The requirements of a vehicle manufacturer to obtain duty-free entry of automobiles and original equipment and parts are two: the first in-vehicle Canadian value added; and, the second, a production-to-sales-ratio requirement. The Canadian in-vehicle value added provision requires that Canadian motor vehicle manufacturers maintain, as a minimum, that amount of Canadian value added contained in their vehicle production in the 1964 base year. That is an absolute dollar amount. The second requirement which also forms part of the agreement is the ratio provision which requires the motor vehicle manufacturers to maintain their assembly of vehicles in Canada at a level not lower that the ratio of the value of vehicles produced in Canada to the value of vehicles sold for consumption in Canada in the 1964 base year.

In addition, under the program, the vehicle manufacturers were required to increase Canadian value added by a specific amount by the end of the 1968 model year.

This was an absolute amount of production which was considered a minimum in order to obtain the kind of efficiencies that would allow the industry in Canada to compete in the U.S. market. It was a one-shot absolute dollar requirement which had to be achieved by the motor vehicle manufacturers in 1968 and in each subsequent year.

In addition, the motor vehicle manufacturers are required to increase Canadian value added in production of vehicles and original equipment parts by an amount up to 60 per cent, depending on the size of the company, of growth in Canadian vehicle sales in Canada over those experienced in 1964. Those are the requirements that the motor vehicle manufacturers must meet and maintain in order to enjoy the duty-free of motor vehicles or original equipment parts.

The committee also sought information about the percentage of total North American sales, production and employment that Canada achieved during the 1964-1974 period. Here I refer to tables 6(a), 6(b) and 6(c).

Table 6(a) deals with the Canadian share of total North American sales or consumption of motor vehicles made in Canada and the United States. Between the years 1964 and 1973 Canadian consumption, as a percentage of total Canadian and U.S. consumption, varied between 6.8 per cent in 1964 and 7.5 per cent in 1973. The percentages were lower in the 1971-72 period. In 1974 the Canadian share of total U.S. sales rose to 9.8 per cent and to 11 percent in 1975.

Table 6(b) provides a comparison of production activity. This comparison shows that the Canadian share of total automotive production activities increased from 3.5 per cent in 1963 to 6.6 per cent in 1974.

A comparison of the percentages in tables 6(a) and 6(b) shows that steady progress has been made in narrowing the gap between consumption share and share of production activities between 1963 and 1973. However, the production share in subsequent years levelled off, while the Canadian consumption share continued to grow. That was caused by the downturn in the United States market, primarily. Table 6(c) deals with the Canadian share of total North American employment in the automotive industry. In percentage terms, the Canadian share of employment increased from 8.4 per cent in 1964 to 11.2 per cent in 1974.

Mr. Chairman, a further question that was asked was with regard to the Canadian and United States views on the safeguards in the Agreement. I believe that in considering this question, one should begin by looking at the objectives of the Agreement, and if I may I would like just to repeat them.

The Agreement sets forth three objectives. The first objective was the creation of a broader market for automotive products, within which the full benefits of specialization and large scale production could be achieved. The second objective was the liberalization of United States and Canadian automotive trade in respect of trade barriers and other factors tending to impede it, with a view to enabling the industries of both countries to participate on a fair and equitable basis in the expanding total market of the two countries. The third objective was the development of conditions in which market forces may operate effectively to attain the most economic patterns of investment, production and trade.

My view, Mr. Chairman, is that it is only against this background that one can appreciate the positions respecting the production requirements of the Automotive Agreement. As I understand it, there are pressures by the United States for the removal of the Canadian value added and production to sales ratio requirements in the Agreement. It has been argued that these requirements are no longer warranted, and there have been claims by the United States that these requirements were accepted as transitional only. There have also been suggestions that Canada introduce a tariff free arrangement on vehicles similar to the United States arrangement on vehicle imports from Canada under the Agreement. They claim that the maintenance of the tariff on automobiles contributes to higher prices in Canada, which has resulted in a restraint on the growing demand for North American produced vehicles. Canada's position is that there was no commitment to remove the ratio and CVA requirements at any specific time, and therefore Canada has no obligation to do so under the terms of the Agreement.

Canada has consistently maintained that there is need for some special understandings in order to ensure that the industry in Canada would be able to participate on a fair and equitable basis in the markets of the two countries.

I believe, Mr. Chairman, that the matter of the tariff was dealt with in the answer to an earlier question.

The members of the committee were also interested in the impact in Canada and the United States of third world country imports of cars, from 1964 to the present. I refer members to table No. 8. My only comment Mr. Chairman, is that the Canadian experience has been over a longer period of time, and the percentage of third world country imports into Canada has declined, whereas up until the early part of 1976, which is really in the first three months, the United States percentage has been increased.

A further question, Mr. Chairman, related to the energy requirements announced by the United States and Canadian governments, and table No. 9 sets out those requirements.

The last question, Mr. Chairman, deals with whether or not the Canadian parts manufacturers are competitive with the United States parts manufacturers. Mr. Chairman, there are a number of methods of comparing competitiveness. Each, however, takes into account resources and the ability to market and manufacture the product. Two of the most commonly used methods are labour productivity in terms of value added per employee, and wage rate per production man-hour. Table 10(a) provides a comparison of productivity in terms of value added per employee, and shows that productivity of the Canadian automotive parts industry remains lower than that in the United States, on average, although the productivity in Canada increased by 83 per cent during the period 1967 to 1973.

The value added per employee in the automotive parts industry in the United States varies considerably by region, and also reflects the capital intensity of the parts production being undertaken. The value added per employee in general increases in relation to the level of capital intensity of parts production. For example, the value added per employee in a stamping plant or an engine plant is substantially higher than the value added per employee in a trim plant or in a plant making wiring harnesses. In the United States the more labour intensive automotive parts production is located in the southern and western regions.

Table 10(b) provides wage comparisons in the automotive parts industry in Canada and the United States. Canadian wages per production man-hour in the automotive parts sector have been lower than the average wages in the United States automotive parts industry. The Canadian wages in this sector are lower than the wages paid in the north central, regions of the United States, but are comparable with the south and west regions.

Mr. Chairman, I think that the comments I made earlier respecting means of measuring competitiveness or productivity are valid in respect to an attempt to answer this question. I think, in fairness to the industry in Canada, one would have to take a plant in Canada and measure it against a similar plant in the United States. Any other method of measuring productivity may give a distortion in relation to any specific plant, whether it be assembly, or parts production.

That, Mr. Chairman, concludes the answers to the questions that were raised when we appeared on February 26.

The Acting Chairman: You have done a pretty complete job.

Are there any other questions?

Senator Laird: First of all, I have one simple question. I understood, somehow or other, either from evidence or otherwise, that in Brazil and Mexico, for example, there was no assembling of motor vehicles; yet something that was said here today rather indicates otherwise. What is the fact?

Mr. Arthur: To my knowledge, Mr. Chairman, automobiles are assembled in Brazil and in Mexico.

Senator Laird: It has also emerged pretty clearly, I think—and this arose out of the answer to a question by Senator McElman—that a very important aspect of this problem is the unfortunate position in which the parts people find themselves. Consequently in that connection you may have noted a very interesting suggestion by Mr. Lavelle that in negotiations of the Auto Pact, the parts element should be treated separately. Did you notice that, by any chance?

Mr. Burns: We have had a number of conversations with Mr. Lavelle, and we know his views.

Senator Laird: I have what he said in front of me, but I should add that in a sense he modified that answer by saying that it should all be done under the umbrella of the Auto Pact itself. I know you cannot answer any question on policy, but, as a matter of mechanics, is it feasible to separate the parts industry from the assembly end of it in negotiations?

Mr. Burns: Mr. Chairman, I think it is clear from the statements that Mr. Jamieson has made recently and from other statements made by the department that we are very conscious of the fact that the problem that is posed for Canada in relation to this agreement—which generally speaking, and I think no one denies this, has been of tremendous overall value as compared with the situation we had in 1964—resides in the question of the parts trade. I think it has been clearly identified that in the vehicle assembly side we are shipping more vehicles to the United States than they are shipping to us. Therefore I think it is a reasonable assumption that when negotiations are joined between Canada and the United States about the experience that both countries have had in the automobile industry and what one might do about the Canada-U.S. trade, the predicament of the parts industry will be the first item on the agenda as far as Canada is concerned. We have made the point before, but we would like to make it again, that it is certainly true that there is a very serious adverse balance in the trade between the United States and Canada so far as parts are concerned, but I think the statistical data indicates that the parts industry has grown substantially over the period covered by the Agreement. So we are talking about a situation where the growth has not been in line with the total potential, but nevertheless there is an upward curve. I think it would be a pretty brave man who would make a judgment today about what kind of modification might be made to the automobile agreement to make it more generally acceptable on both sides of the border. But I think that you can be assured that when the automobile industry is discussed between Canada and the United States—and Mr. Jamieson will be seeing his counterpart next week, and that is one of the subjects he will be discussing with him—how both countries perceive the automobile industry. That is not without its problems because the discussions we have had about Brazil and Mexico are not unrelated to that, because there is the question of the 20-year perspective in this industry and the question as to where the assembly of automobiles really takes place and also the question as to what kind of automobile we will be manufacturing 20 years from now—

against all those fundamental things, I think it is fair to say that our emphasis will be on finding the means to achieve a better environment for the parts producers.

Senator Laird: That seems to be fundamental, not only from this morning's evidence but from Mr. Lavelle's evidence and from other information that we have. As far as the overall picture is concerned, there is no doubt whatever that our position has improved immensely since the Auto Pact came into being. I am going down in a week or two with the minister to help open that new Chrysler truck plant. There is no doubt about it that there has been an overall improvement. But speaking for myself, I am concerned about the parts element, and I am wondering if it would be at all feasible, and here I am speaking from the point of view of mechanics and not on the question of policy, to establish either by agreement or otherwise some sort of quota system against these developing countries where the importation of parts is concerned.

Mr. Burns: I would like to reiterate what we said when we were looking at the tables. The amounts coming in today from the developing world are really very small indeed. I think we could provide evidence, for example, that the percentage of the Canadian market for a number of other products supplied by developing countries is very much higher than this. There is no doubt that if this becomes a really significant element there might have to be further consideration, but as an official I would find it hard to argue that 1 per cent of our total imports creates a situation of serious damage in the light of the government's general position that we must find means of trading with developing countries. But to get to a quota arrangement would really bring us up against matters of general commercial policy. With the sole exception of the textile industry, Canada has not engaged in quantitative restrictions on imports, and if we were to look at the question as to why that should be the case, it is greatly affected by our desire not to be restricted in quantitative terms in our own exports. So while one might look at an individual situation and say, "The answer to that clearly is to establish a 5 per cent quota," when that is turned around, we are ourselves not at all invulnerable when it comes to our own exports. Let me give you a different example; we are not the only country in the world that supplies copper. Copper is also an important export from a developing country, and one could conceive of the situation where one of our large customers might say, "We must do something for the developing world and the answer is to shut off imports from Canada. Canada is an industrialized country, so we will give our business where this development aspect is more important." So these are considerations you have to take into account in considering any proposal for quantitative restrictions in this field.

Senator Laird: I agree that the ramifications are such as to create grave difficulties, and this is the sort of answer I wanted to get from you—that it is not all that simple.

Senator Flynn: You started by saying that you would put a very simple question, and now you get the answer that the problem is not all that simple.

Senator Laird: In any event, I think this is about as far as I can go at this stage, so I will leave it up to my colleagues to go on from there.

Senator Flynn: Do you include Mexico and Brazil in the developing countries? In any event, they would like to be so considered, I have no doubt, but I believe the answer you offered Senator Laird was that the problem of the importation of parts from these countries does not represent a very important part of the problem of parts.

Mr. Burns: Mr. Chairman, I will add just a little to what has been said so far. When we look at the strict volume of parts it is very small indeed. Now, I do not doubt that there is another impact of this and it may become more important. If parts from those parts of the world can be priced at very competitive prices, whether they enter the market or not I believe they probably enter into the commercial negotiations. Therefore they may have a depressing effect on the prices for which Canadian parts producers are capable of contracting. That is a commercial point which happens in many trades and in a particular country and is not unique to this type of situation. Therefore some weight must also be given to that type of consideration.

Senator Flynn: On a rather long-term basis, but on a short-term basis I believe the problem is between Canada and the United States with respect to the distribution of parts.

Mr. Burns: The fundamental problem is that of the movement of parts between Canada and the United States. These peripheral problems exist, which may or may not reach significant proportions. I have endeavoured to explain the policy of the government in dealing with such situations. The fundamental problem between Canada and the United States will require discussion of, first of all, where the automobile industry is going in terms of thinking of smaller cars and so on. Then what is the basis on which one could meet these objectives. The objectives of the Agreement on careful reading are not altogether consistent. One refers to allowing market forces to determine the production and investment in trade, while anothere refers to some type of participation. This is where the nub of the argument lies between Canada and the United States and we will have to see how that turns out.

Senator McElman: The parts problem with respect to the so-called developing countries is minimal to our concern. However, the area of real concern for us is our deficit with the U.S., which continues to grow. The Automotive Parts Manufacturers' Association released quarterly figures yesterday and while our overall deficit in automotive trade is dropping from the first quarter of last year, the deficit on parts continues to increase. Their figures show that for the quarter the deficit has increased by $70 million over last year and that the outlook for the whole of this year would give us a year's deficit as large as last year, or even larger, while the overall picture is improving because of our increased export of finished vehicles to the United States. On motor vehicles, for example, for the first quarter last year we had a plus factor of $245 million; for the first quarter of this year it is $395 million. However on parts and accessories we have a deficit for the first quarter last year of $529 million, which has increased to $600 million in the first quarter of this year. Now, unquestionably this can be related to the upturn of the economy in the United States on the finished vehicle side, but our position appear to be continuing to decline on the parts and accessories side.

Mr. Arthur: Mr. Chairman, while it is true that in the first quarter in absolute dollar terms the imbalance in the parts sector did increase over the corresponding period

last year, it is encouraging that our parts exports in relative terms in this quarter increased by approximately 85 per cent over the corresponding period last year. So that in absolute dollars the answer is yes, the parts circumstance in this quarter has deteriorated somewhat over the corresponding period last year. Nevertheless there has been a substantial improvement in relative terms.

Senator McElman: You are speaking of what relative terms?

Mr. Arthur: That our parts exports to the United States increased from $348 million in 1975 to $644 million in 1976. This, as you suggested, senator, is a reflection of the improvement in the United States market. On the other hand, however, our imports of parts increased considerably during this period, which I would again suggest reflects the continuing buoyancy of the Canadian market and the improvement in the United States market for vehicles, because many of the vehicles which are assembled in Canada are shipped to the United States.

Mr. Burns: We are on the same point which we discussed earlier, senator. There are two curves, one of which is, unfortunately, going up faster than the other. We do not wish to leave the impression that that is satisfactory from our point of view, but we also do not wish to leave the impression that it is a disaster for the Canadian automotive parts industry. There is a movement upwards, which is obviously not a movement upwards which satisfies the industry and it is not a situation which is attractive from the point of view of the government in an overall sense. However, if there were a situation in which parts imports were increasing and parts exports were decreasing we would be in a very difficult position. That is not the situation which we are now discussing.

Senator McElman: But it does point up the fact that the problem we are facing in the total automotive industry trade balance between the two countries rests not with the finished vehicles.

Mr. Burns: Yes.

Senator McElman: From our standpoint, our need for action is with respect to the parts and accessories field.

Mr. Burns: That is correct; I agree with that.

Senator McElman: In line with that, we had a very interesting suggestion from Mr. Lavelle, when he appeared as a witness, that there should be established a bilateral commission to act as a regulatory, supervisory body and monitor the operation of the Agreement and its effects on employment; research, production and investment in Canada and the United States. He also suggested that there should be constant bilateral consultations and excessive surpluses or deficits in vehicles or parts would be limited to a much narrower margin. How do you react to that?

Mr. Burns: If I may, Senator McElman, one can set down a whole series of different things that we might do to achieve a more satisfactory result. That is obviously one solution. It is difficult for us to comment on the validity of one solution as against other potential solutions, because this really depends very much on the course of negotiation between Canadian and U.S. authorities concerned.

I would not want to preempt the possibilities of any number of different ways in which this might be achieved. Obviously from just looking at it as a layman, to find some way where there was an agreement about some kind of balance and maximum swings, and some means of coping with the swings, is a proposition that obviously would appeal to everyone in this room. But whether that is a saleable proposition would remain to be seen.

There may be better ways of getting at what we want to achieve. The message I would like to leave is that certainly Mr. Jamieson is very much aware of the problem. He has met with the industry. He is meeting with his American counterpart. We are engaged in these parallel studies that I think are of fundamental importance, which is where we will be five or six years from now, because whatever changes we mutually decide are sensible have to be related to the kind of industry that will be operating in any changed framework.

As that work develops, alternative ways of getting at the problems will begin to emerge, and I think it is fair to say that from the standpoint of the Department of Industry, Trade and Commerce we attach very high priority to getting changes that represent the right kind of mix, as against the objectives of the Agreement which, one might say, are not totally consistent; and also in terms of the totality of our relationship with the United States. All of those factors have to come into play.

Senator Carter: I would like to ask a few questions on the tables.

The Acting Chairman: Before you do so, senator, may I get some guidance as to when the members of the committee wish to terminate this hearing?

Senator Laird: I have to leave now.

The Acting Chairman: How many members wish to ask questions?

Senator McElman: I have many other questions. I think our witnesses will have to become almost members of the committee. I am sure they realize that there are many areas remaining on which we wish to question them.

The Acting Chairman: Are we going to have another meeting on this general area?

Senator McElman: Scheduling has been arranged right up to the time of adjournment. I do not think there is any possibility—I am sure our chief witness will be relieved—of his returning prior to the summer recess, if we ever get one. At the same time, I am sure that he will be back, not just for one visit but for a number of visits.

Senator Connolly: Next fall.

Senator McElman: Yes.

Senator McNamara: Mr. Chairman, I have to leave now. How is our quorum situation?

The Acting Chairman: The meeting will terminate.

Senator Connolly: Is it practical to continue? Can your questions wait, Senator McElman?

Senator McElman: So far as I am concerned, yes, they would have to wait, because there is no possibility of covering all the areas of concern.

Senator Connolly: If Senator Carter has just a few questions, perhaps we could finish with his, and the more substantial body of questions might wait.

Senator McElman: I have no intention of questioning further today.

Senator Carter: I think our new rules permit us to continue, even without a quorum.

Senator Connolly: If Senator Carter wishes to get his questions on the record today, I suggest that we continue with Senator Carter and then adjourn.

Senator Carter: It really does not matter to me. They are not very profound questions.

My first question is: What did we decide to do about the extra information that we requested with respect to the comparative prices of these automobiles? I suggested that it would be useful to have also the transportation costs. The question arose that we should have one of the automotive companies appear before us. But this information was solicited at the request of the department, and if we are going to request this additional information, it might possibly be channeled through that department in connection with your first request.

Mr. Burns: Mr. Chairman, obviously we are in your hands. If you ask for preferences, our preference would be for you to ask the automobile companies—one or more—to come to deal with this question, among other questions that you may wish to put to them.

Senator Carter: We would have to warn them beforehand of what we wished to ask them.

Mr. Burns: As I understand it, the transportation issue is a complicated one. It is one that we do not really feel competent to deal with, particularly in the Canadian context. I think you would get much more satisfactory evidence directly from the companies if you were to give them some advance notice that that indeed was one of the areas in which you wanted to have some information.

Senator Carter: We have been talking about 95 per cent from the United States and 5 or 6 per cent from other countries. This percentage business bothers me, because we look at the other countries and say, "Well, 5 per cent, 6 per cent; it looks like it is constant." But it is not constant, because it is a percentage of an expanding volume.

I find it a little misleading. We look at the 5 per cent and say, "It is the same as last year," or, "It is the same as the year before," and we almost logically deduce that there has been no expansion, while there has been. I think that point should be noted. There is quite a considerable expansion. It applies not only to the totality of the 5 per cent or the 6 per cent of the other countries, but also to individual countries like Brazil, which has moved up from 0.24 to 0.82. I do not think we should lose sight of that.

Mr. Burns: Perhaps we should have expanded that table a little. The 5 per cent and 6 per cent figures include, of course, all the imports from the Volkswagen, Datsun, Toyota people, and all of those who are selling cars in this country from outside. Those can really be set aside from the main consideration which you have before you, of the totality of the automobile industry in the North American context.

It does not mean that the developing world is selling us 5 per cent or 6 per cent of our total. It means that the developing world is really the three countries we have identified—Mexico, Venezuela and Brazil—and it would amount to about one per cent. The other 4 per cent or 5 per cent is coming as service parts from those countries which sell us cars.

Senator Carter: I would like to come back to Table 10(b)—the last sheet—where you give us the wages per production manhour. But they are only up until 1973.

As you pointed out, Canadian wages are comparable to wages in the western region of the United States and not too far off the level of wages in the northern region. However, wage scales in both the United States and Canada have changed since 1973, with a much greater increase being realized in Canadian wages than in U.S. wages. Have you any idea what the present situation is in relation to wages vis-à-vis Canada and the United States?

Mr. Arthur: While we do know the Canadian wage circumstance, we are unable to get anything more up-to-date than the 1973 figures as far as the United States is concerned.

Senator Carter: Certainly the figure would be greater than $4.51 under present Canadian wage scales.

Mr. Arthur: That is true. We can provide that information to the committee by way of a memo.

Senator Carter: I would appreciate that.

Dealing next with Table 6(c), the Canadian percentage of total employment in the automotive production industry remained fairly constant in the five-year period from 1965 through 1970, and in the period from 1970 through 1974 increased from 9.5 per cent to 11.2 per cent. I am wondering whether that increase is the source of the complaint on the part of the United States that the Auto Pact is exporting employment in the automotive industry from the United States to Canada. Are they using this type of information to support such complaints?

Senator McElman: The unions are certainly putting forth that proposition.

Senator Carter: I am wondering whether that is also the position taken by the United States government.

Mr. Arthur: Again, I think one would have to qualify the answer. The percentage of employment will be influenced by the kind of automotive activity taking place in Canada as opposed to that taking place in the United States. One of the issues that has been discussed by the committee is the fact that we seem to be doing very well in the assembly of vehicles in relation to our consumption of vehicles, but we are not doing as well in parts. The assembly of vehicles is labour intensive in relation to other activities within the automotive sector. There is a question as to whether the parts production undertaken in Canada is primarily of the labour intensive type as opposed to the capital intensive type, and if that is the case, it will have a bearing when taken only in terms of employment. I do believe that it is one of those matters which is of concern and reflects the structure of the industry in Canada as opposed to that in the United States.

Senator Connolly: In the sense that in Canada we are more labour intensive, or tend to be, both in relation to parts and motor vehicle production?

Mr. Arthur: That is not the impression I wish to give the committee. The point I was endeavouring to make is that we have a higher level of assembly operations in Canada in relation to our consumption of vehicles. In other words, we do more assembly operations in Canada than would

meet Canadian demand, and assembly is a labour intensive operation. We are not necessarily less efficient in the assembly process than are plants in the United States; we merely have more assembly operations in relation to our market than is the case in the United States. The type of parts production we have in Canada—and I qualified this—appears at least to be of the more labour intensive type, which tends to inflate the employment picture in Canada in relation to the total employment situation in Canada-U.S. terms.

Senator Carter: During the course of your remarks you said something to the effect that in terms of price, the Canadian consumer had benefited more, and I am not sure whether you made that statement in relation to the total agreement or a part of it. Is that an accurate statement?

Mr. Arthur: It is.

Senator Carter: And does it apply to the total industry or only a portion of it?

Mr. Arthur: It applies to the purchase of motor vehicles.

Senator Carter: Has Canada benefited more in terms of employment in the automotive sector than has the United States?

Mr. Arthur: In relative terms, employment has increased in the automotive industry totally in Canada at a greater rate than has been the case in the United States.

Senator Carter: So, to that extent at least we have benefited both in terms of price and employment.

At an earlier stage in the meeting someone made the statement that a Volvo could be assembled in Halifax, taken to Toronto and sold for less in Toronto than in Halifax. Dealing with the price differential between the United States and Canada, would it be possible to purchase a car manufactured in Canada at a lesser price in the United States than would be possible in Canada?

Mr. Burns: I apologize for hesitating.

Senator Carter: Another one for the automotive industry?

Mr. Burns: It is a very complicated industry. As we said earlier, the term "suggested retail price" is really no more than some kind of general yardstick. What are the prices of cars?

Senator McElman: High!

Mr. Burns: I agree. It is extremely difficult to make a judgment.

The Acting Chairman: I think perhaps this would be a convenient time to adjourn.

Senator McElman: Before we do so, Mr. Chairman, I think we would be remiss if we did not express to Mr. Burns, in particular, and the department, in general, our great appreciation for all the information provided to the committee. I think Mr. Burns is to be congratulated for the tremendous patience he has shown. I understand he made the comment at one point that he was seeing us much more than he was seeing his wife. He has become almost recognized as a member of our committee. Certainly on behalf of the committee we should thank him. Today's meeting marks the sixth time he has appeared before the committee, and this is Mr. Arthur's second or third time. I am sure we will be seeing much more of them following the summer recess, but since we probably will not be seeing them before then, I think we should express our appreciation for all of the assistance they have rendered to us.

Hon. Senators: Hear, hear.

Mr. Burns: Mr. Chairman, let me just say that we recognize the very great importance of the work being carried out by this committee in terms of Canada-U.S. relations which, of course, concerns us very much indeed, and any help we can provide to make your task easier and to make your results even more valuable than they might otherwise be is all very much in our interest, and we appreciate very much the great courtesy that has been extended us by all members of the committee.

The Acting Chairman: We are only sorry that time is so short.

Before adjourning, I wish to inform the members of the committee that the next meeting will be on Tuesday, May 11, at 3 p.m., at which time we will have before us Mr. McAvity, the President of the Canadian Export Association.

The committee adjourned.

APPENDIX "A"

SELECTED STATISTICS
ON THE
AUTOMOTIVE INDUSTRY IN CANADA AND THE U.S.A.
SUBMITTED TO THE
STANDING SENATE COMMITTEE ON FOREIGN AFFAIRS

Note: These tables are numbered to correspond to the schedule of answers submitted to the Committee on April 29, 1976. There is no Table 5 nor Table 7.

Office of the Special Advisor
(Automotive)
Department of Industry, Trade
and Commerce

April 29, 1976

TABLE 1 (a)

U.S. IMPORTS OF AUTOMOTIVE PARTS & ACCESSORIES, CALENDAR YEARS 1964-75

(MILLION OF U.S. DOLLARS)

COUNTRY OF ORIGIN	1964	65	66	67	68	69	70	71	72	73	74	Prelim 75
Canada	49.3	94.0	360.2	474.1	783.0	958.9	1079.6	1480.9	1795.4	2171.6	1996.7	2046.0
Japan	2.1	2.8	9.6	20.4	58.5	109.7	135.1	156.3	225.2	290.2	370.5	299.4
Sweden	1.7	1.4	2.0	2.6	3.3	3.3	4.4	4.8	6.9	11.3	15.9	14.9
United Kingdom	12.6	12.3	16.3	15.8	18.7	19.1	32.6	62.9	86.1	77.0	59.0	54.1
W. Germany	29.5	31.5	47.5	50.0	73.5	74.3	115.8	157.4	179.8	261.7	327.7	208.1
France	2.8	2.3	2.9	2.6	3.2	5.4	5.3	7.7	14.7	19.0	60.2	47.1
Italy	1.4	1.6	2.0	2.4	3.5	4.1	5.9	6.0	8.4	11.4	18.7	23.5
Benelux	1.7	2.1	1.9	1.5	2.5	2.8	3.5	4.3	5.2	6.9	9.5	9.0
OTHERS	1.1	1.6	3.2	8.2	5.9	8.9	20.1	32.0	43.2	106.7	187.9	189.60
which includes: -												
Brazil					0.02	0.20	0.82	2.31	5.30	22.58	61.58	25.83
Mexico					2.57	3.82	11.38	20.44	27.27	45.54	72.75	121.43
Spain					0.43	0.63	0.99	1.62	8.52	16.33	15.71	11.53
Taiwan					0.52	0.25	2.47	2.72	1.59	7.19	14.37	8.59
Venezuela					0.01	0.06	0.03	0.03	0.05	0.70	3.73	2.15
and etc.					2.35	3.94	4.41	4.88	0.47	14.36	19.76	20.07
TOTAL	102.2	149.6	445.6	577.6	952.1	1186.5	1402.3	1912.3	2364.9	2955.8	3046.1	2891.7

Source: U.S. Bureau of Census and U.S. Department of Commerce

TABLE 1 (b)

U.S. IMPORTS OF AUTOMOTIVE PARTS & ACCESSORIES, CALENDAR YEARS 1964-75

(IN PERCENTAGE SHARE)

COUNTRY OF ORIGIN	1964	65	66	67	68	69	70	71	72	73	74	Prelim 75
Canada	48.2	62.8	80.8	82.1	82.2	80.8	77.0	77.4	75.9	73.5	65.5	.71.0
Japan	2.1	1.9	2.2	3.5	6.1	9.2	9.6	8.2	9.5	9.8	12.2	10.3
Sweden	1.7	.9	.4	.5	.3	.3	.3	.3	.3	.4	.5	.5
United Kingdom	12.3	8.2	3.6	2.7	2.0	1.6	2.3	3.3	3.6	2.6	1.9	1.8
W. Germany	28.9	21.1	10.7	8.9	7.7	6.3	8.3	8.2	7.6	8.9	10.8	7.2
France	2.7	1.5	.7	.5	.3	.5	.4	.4	.6	.6	2.0	1.6
Italy	1.4	1.1	.4	.3	.3	.2	.2	.2	.2	.2	.3	.3
Benelux	1.6	1.4	.4	.3	.3	.2	.2	.2	.2	.2	.3	.3
Others	1.1	1.1	.7	1.4	.6	.8	1.4	1.7	1.8	3.6	6.2	6.5
which includes												
Brazil					-	-	-	.1	.2	.8	2.0	.9
Mexico					.3	.3	.8	1.1	1.1	1.5	2.4	4.2
Spain					-	-	-	-	.4	.6	.5	.4
Taiwan					-	-	.2	.1	-	.2	.5	.3
Venezuela					-	-	-	-	-	-	.1	-
and etc.					.3	.4	.3	.3	-	.5	.7	.7
TOTAL	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0

Note; - denotes less than 0.1%
Compiled from figures
used in Table 1A

TABLE 1 (c)

U.S. IMPORTS OF FINISHED TRUCKS & BUSES
(in $ Million U.S.)

COUNTRY OF ORIGIN	1964*	1965	1966	1967	1968	1969	1970	1971	1972	1973	1974	(Prel) 1975
Canada	4.7	23.7	158.3	269.9	447.9	680.5	666.4	721.1	850.1	951.3	1055.3	1046.0
Bel. & Lux.	6.0	8.2	6.2	9.6	10.7	10.8	13.1	15.9	15.2	17.7	13.4	8.6
France	--	--	--	--	0.1	0.5	n	0.1	n	0.1	0.1	2.3
W. Germany	6.1	4.4	3.1	3.5	4.0	6.4	9.1	10.2	9.1	4.1	9.6	4.5
Italy	0.1	0.1	0.3	0.1	1.3	1.2	0.4	0.1	n	0.7	0.4	2.4
Netherlands	n	--	n	n	n	0.5	1.0	0.2	n	0.3	0.1	0.2
Sweden	--	--	0.1	0.6	0.3	0.3	0.3	0.3	0.1	0.3	0.4	2.2
U.K.	.9	0.7	0.7	0.8	0.9	1.3	1.3	1.2	1.8	2.4	1.6	2.6
Japan	.6	6.3	6.2	10.2	14.0	20.3	37.9	104.8	249.2	298.3	483.2	345.8
Others**	--	--	--	0.1	0.1	0.2	9.6	0.7	2.2	15.6	36.0	19.0
TOTAL ALL COUNTRIES	18.3	43.5	175.0	294.8	479.3	722.0	739.1	854.6	1128.2	1290.8	1600.1	1433.6

NOTES:

-- denotes negligible amount
n denotes none reported
* including chasis
** for U.S. imports from Brazil, Mexico and Venezuela see separate Tables

SOURCE:

U.S. Department of Commerce
U.S. Bureau of Census

TABLE 1 (d)

U.S. IMPORTS OF FINISHED PASSENGER VEHICLES
(in $ Million U.S.)

COUNTRY OF ORIGIN	1964	1965	1966	1967	1968	1969	1970	1971	1972	1973	1974	(Prel) 1975
Canada	21.9	84.1	370.7	818.0	1348.9	1826.6	1806.1	2396.9	2594.9	2770.0	3090.1	3285.7
Bel. & Lux.	0.2	0.3	0.5	0.5	28.3	60.9	82.6	134.7	109.3	192.3	216.8	164.5
France	33.4	21.6	30.2	23.2	39.9	26.5	41.1	29.1	30.2	22.5	45.6	45.8
W. Germany	381.7	396.4	598.4	584.6	915.7	874.0	1065.5	1279.4	1417.5	1808.5	1876.3	1512.7
Italy	15.7	13.6	18.3	23.9	51.5	66.6	64.3	83.4	129.3	123.4	240.6	326.1
Netherlands	0.2	0.5	0.2	0.3	0.3	0.5	--	--	--	1.4	0.1	--
Sweden	28.3	40.9	53.9	73.2	92.0	76.5	107.8	135.0	166.3	189.9	227.5	234.5
U.K.	99.3	90.8	114.9	103.6	125.0	138.9	105.2	152.3	125.6	134.7	158.6	181.7
Japan	17.1	25.4	56.2	73.2	194.0	305.8	457.3	928.8	1138.6	1244.2	1685.4	1742.8
Others**	0.2	0.1	0.6	0.3	0.2	0.1	0.1	0.2	0.2	8.7	11.9	0.3
TOTAL ALL COUNTRIES	598.1	673.7	1243.8	1700.9	2795.8	3376.4	3730.0	5139.8	5711.9	6495.6	7552.9	7494.1

NOTES:

-- denotes negligible amount
** for U.S. imports from Brazil, Mexico and Venezuela see separate Tables

SOURCE:

U.S. Department of Commerce
U.S. Bureau of Census

STATISTICAL SUMMARY OF CANADIAN IMPORT OF AUTOMOTIVE PARTS & ACCESSORIES FROM ALL COUNTRIES, THE UNITED STATES, MEXICO, VENEZUELA, AND BRAZIL 1970 - 1975

TABLE 1(E)

		IN THOUSAND DOLLARS					
		1975	1974	1973	1972	1971	1970
TOTAL IMPORT FROM ALL COUNTRIES		4738615	4179012	3716322	3070005	2576818	2224527
TOTAL IMPORT FROM UNITED STATES OF AMERICA		4500487	3898600	3538296	2899531	2456162	2096707
TOTAL IMPORT FROM COUNTRIES OTHER THAN THE UNITED STATES OF AMERICA		238128	280412	178026	170474	120656	127820
which includes	FROM MEXICO	6896	5267	3015	1384	579	55
	FROM VENEZUELA	772	84	642	10	-	-
	FROM BRAZIL	39128	9652	166	110	32	3

		IN PERCENT OF TOTAL IMPORT FROM ALL COUNTRIES					
		1975	1974	1973	1972	1971	1970
TOTAL IMPORT FROM UNITED STATES OF AMERICA		95.00%	93.30%	95.20%	94.40%	95.30%	94.30%
TOTAL IMPORTS FROM COUNTRIES OTHER THAN THE UNITED STATES OF AMERICA		5.00%	6.70%	4.80%	5.60%	4.70%	5.70%
which includes	FROM MEXICO	0.14%	0.12%	0.08%	0.04%	0.02%	-n-
	FROM VENEZUELA	0.01%	-n-	0.01%	-n-	-	-
	FROM BRAZIL	0.82%	0.23%	-n-	-n-	-n-	-n-

Note; -n- denotes less than 0.01%

SOURCE: Calculated from data extracted from Statistics Canada Catalogue 65-203
See attached table 1(F) for detail listing of automotive parts & accessories imported from United States of America, Mexico, Venezuela, and Brazil 1970-1975

CANADIAN IMPORT OF AUTOMOTIVE PARTS AND ACCESSORIES
FROM ALL SOURCES (TOTAL), THE UNITED STATES,
MEXICO, VENEZUELA, AND BRAZIL FROM 1970 TO 1975

(IN THOUSAND DOLLARS CANADIAN)

Source: Catalogue 65-203
Statistics Canada

COMMODITY CODE	COMMODITY NAME		1975	1974	1973	1972	1971	1970
465-75	Motor vehicle hardwares, Nes	TOTAL	14630	14021	14602	40977	55761	42726
		U.S.A.	13328	13187	14081	40263	55249	41228
474-37	Asbestos Brake Linings	TOTAL	5947	5296	4788	4920	4772	3365
		U.S.A.	5410	4415	3874	4101	4187	2935
474-38	Asbestos Clutch Facings	TOTAL	734	1350	1024	644	365	434
		U.S.A.	639	1263	930	611	356	373
		Mexico	-	14	21	-	-	-
502-18	Diesel and Semi-Diesel Engines, Nes	TOTAL	57085	42340	38035	29217	22468	16068
		U.S.A.	38614	29811	27370	19594	16642	9806
		Mexico	-	1162	-	-	-	-
502-19	Engine Pts, Diesel and Semi-Diesel, Nes	TOTAL	18820	16023	14955	11611	10675	9303
		U.S.A.	10866	10405	9776	7172	6333	5851
		VENEZUELA	1	-	-	-	-	-
502-23	Air Cooled Gasoline Engines, Nes	TOTAL	8949	7012	6770	5660	3449	2964
		U.S.A.	8887	6934	6332	5588	3429	2791
502-25	Gasoline Engines, Nes	TOTAL	8026	8436	7195	6535	4383	3332
		U.S.A.	7772	7741	6650	6062	4252	3236
		Mexico	-	606	97	115	-	-

COMMODITY CODE	COMMODITY NAME		1975	1974	1973	1972	1971	1970
502-29	Parts of Gasoline Engines, Nes	TOTAL	6889	6303	5229	6093	5683	5234
		U.S.A.	6278	5652	4899	5088	5091	4788
		Mexico	3	-	-	-	-	-
502-99	Engines, Turbines and Parts, Nes	TOTAL	30412	18845	12327	11225	5097	4521
		U.S.A.	26397	15120	10176	9902	4474	3988
504-01	Bearings and Parts for Motor Vehicles	TOTAL	14099	12450	12966	11908	12223	16278
		U.S.A.	11908	10161	10127	9518	9866	11651
		Brazil	-	1	2	-	1	-
588-02	Snowmobile Engines	TOTAL	10934	10495	17645	29450	29258	46933
		U.S.A.	519	574	2318	1517	1082	500
588-04	Motor Vehicle Engines, Diesel	TOTAL	62355	75597	57327	37517	31522	21415
		U.S.A.	61372	74332	59144	30954	30077	20515
588-19	Motor Vehicle Engines, Nes	TOTAL	363998	314424	307327	270634	242617	201658
		U.S.A.	314117	285520	281402	243811	226882	191098
		Mexico	2048	2215	478	-	160	-
		Brazil	38866	9411	-	-	-	-
588-34	Parts of motor vehicles Diesel Engines	TOTAL	24159	24848	23655	12016	8326	6757
		U.S.A.	22493	22928	22783	11453	7966	6238
		Mexico	-	-	-	2	-	-
588-49	Parts of Motor Vehicle Engines, Nes	TOTAL	366425	308430	343219	205090	146742	97495
		U.S.A.	353498	296025	329588	195493	138875	89403
		Mexico	488	115	64	7	-	-
		Brazil	72	38	25	13	-	2
589-10	Couplings & Parts	TOTAL	2327	2799	2341	2081	1560	1330
		U.S.A.	2289	2672	2286	2076	1555	1323

COMMODITY CODE	COMMODITY NAME		1975	1974	1973	1972	1971	1970
589-35	Jacks for Motor Vehicles and Parts	TOTAL	3408	2809	1775	3335	2988	2557
		U.S.A.	2724	2249	1292	2735	2606	2258
589-40	Mirrors for Motor Vehicles	TOTAL	8621	6522	5971	7052	4285	3899
		U.S.A.	8274	6340	5748	6949	4177	3815
		Mexico	-	-	6	-	-	-
589-99	Parts and Accessories for Motor Vehicles, Nes	TOTAL	3546715	3146249	2700536	2239558	1861065	1633824
		U.S.A.	3436355	3032477	2622757	2174531	1819865	1602539
		Mexico	4289	2807	2344	1232	391	42
		Brazil	190	180	129	97	20	1
		Venezuela	769	84	642	10	-	-
637-24	Radio Receiving Sets, Automobile	TOTAL	23759	17611	9558	12323	11696	9552
		U.S.A.	21361	13198	6204	8708	8862	7422
681-66	Auto Type Lighting Fixtures and Parts	TOTAL	32691	27703	36302	29970	25388	22000
		U.S.A.	28755	24641	33083	27756	23651	19912
		Brazil	-	10	8	-	-	-
		Mexico	1	-	-	-	-	-
681-73	Vehicle Incand Light Fixtures and parts, Nes	TOTAL	1211	1283	1443	972	627	434
		U.S.A.	758	758	624	530	385	264
682-42	Sealed Beam Lamps	TOTAL	5467	3619	2820	2009	2164	1083
		U.S.A.	5012	2962	2597	1913	2093	1043
		Brazil	-	1	-	-	-	-
689-08	Starter Motors and Assemblies	TOTAL	13323	12093	13209	19206	19175	17928
		U.S.A.	12470	11476	12550	18759	18735	16756
689-12	Distributors and Assemblies	TOTAL	4082	7317	9904	13585	13325	10550
		U.S.A.	4019	7174	9829	13554	13307	10536

COMMODITY CODE	COMMODITY NAME		1975	1974	1973	1972	1971	1970
689-16	Generators, Int Combust Engine Type	TOTAL	13252	9074	8960	14974	16753	14405
		U.S.A.	13022	8707	8387	14617	16558	14116
		Mexico	-	-	1	26	28	13
689-24	Spark Plugs	TOTAL	5929	7636	6876	5995	6888	6476
		U.S.A.	2688	3466	2637	2869	3498	2722
689-89	Electrical Equipment for Int. Combust Engines, Nes	TOTAL	10733	11241	13329	15422	11352	10360
		U.S.A.	9542	10267	10751	14609	10978	9110
		Venezuela	2	-	-	-	-	-
689-95	Parts of Electrical Equipment for Engines	TOTAL	73635	57183	37234	20026	16211	11646
		U.S.A.	71120	54158	35128	18798	15131	10490
		Mexico	67	24	4	2	-	-
		Brazil	-	11	2	-	11	-

Prepared by: Office of the Special Advisor (Automotive)
Trade Policy Planning Group
Department of Industry, Trade and Commerce

TABLE 1(g)

CANADIAN IMPORTS OF FINISHED MOTOR VEHICLES
AND AUTOMOTIVE PARTS & ACCESSORIES FROM
THE EUROPEAN ECONOMIC COMMUNITIES, SWEDEN AND JAPAN 1964-74
(IN CANADIAN $ MILLION)

	CANADIAN IMPORT OF FINISHED MOTOR VEHICLES	CANADIAN IMPORT OF AUTO PARTS & ACCESSORIES	IMPORT OF AUTO PARTS & ACCESSORIES AS PERCENT OF FINISHED MOTOR VEHICLES
	(a)	(b)	(b/a)
1964	96.6	20.1	20.8
1965	115.4	22.5	19.5
1966	98.4	23.0	23.4
1967	104.8	26.6	25.4
1968	176.1	51.9	29.5
1969	255.1	91.9	36.0
1970	252.6	98.1	38.8
1971	396.8	95.9	24.2
1972	503.3	117.9	23.4
1973	426.1	117.0	27.5
1974	512.5	137.9	26.9

SOURCE:

Selected from Statistics Canada publications.

TABLE 1(h)

U.S. IMPORTS OF FINISHED MOTOR VEHICLES
AND AUTOMOTIVE PARTS & ACCESSORIES FROM
THE EUROPEAN ECONOMIC COMMUNITIES, SWEDEN AND JAPAN 1964-75
(IN US $ MILLION)

	U.S. IMPORT OF FINISHED MOTOR VEHICLES	U.S. IMPORT OF AUTO PARTS & ACCESSORIES	IMPORT OF AUTO PARTS & ACCESSORIES AS PERCENT OF FINISHED MOTOR VEHICLES
	(a)	(b)	(b/a)
1964	589.6	52.8	8.9%
65	609.3	54.0	8.9
66	889.2	82.4	9.3
67	907.4	95.3	10.5
68	1479.0	163.2	11.0
69	1591.0	218.7	13.8
70	1986.9	303.6	15.3
71	2875.5	499.4	17.4
72	3392.7	526.3	15.5
73	4040.8	677.5	16.8
74	4959.7	861.5	17.4
75	4577.3	666.1	14.6

SOURCE:

Calculated from previous tables.

TABLE 2(a)

Original-equipment motor-vehicle parts: Canadian production, by class of producer, in terms of transfer values, 1960-74.

Period	Motor vehicle manufacturers	Independent parts producers	Total	Independents as a percent of the total
	Million U.S. dollars	Million U.S. dollars	Million U.S. dollars	Percent
1960	51	183	234	78.2
1961	51	173	224	77.2
1962	67	238	305	78.0
1963	85	321	406	79.1
1964	85	377	462	81.6
1965	137	504	641	78.6
1966	258	598	856	69.9
1967	285	686	971	70.6
1968	402	939	1,341	70.0
1969	461	992	1,453	68.3
1970	488	850	1,338	63.5
1971	698	1,018	1,716	59.3
1972	859	1,207	2,066	58.4
1973	928	1,348	2,276	59.2
1974	896	1,307	2,203	59.3

Original-equipment motor-vehicle parts: U.S. production, by class of producer, in terms of transfer values, 1960-74.

Period	Motor vehicle manufacturers	Independent parts producers	Total	Independents as a percent of the total
	Million U.S. dollars	Million U.S. dollars	Million U.S. dollars	Percent
1960	4,718	4,374	9,092	48.1
1961	5,678	4,488	10,166	44.1
1962	7,065	5,589	12,654	44.2
1963	8,209	6,353	14,562	43.6
1964	8,465	6,629	15,094	43.9
1965	10,839	8,628	19,467	44.3
1966	10,645	8,247	18,892	43.7
1967	9,461	7,347	16,808	43.7
1968	11,222	8,242	19,464	42.3
1969	11,973	8,791	20,764	42.3
1970	9,472	7,586	17,058	44.5
1971	13,037	9,421	22,458	41.9
1972	13,799	10,454	24,253	43.1
1973	16,002	13,233	29,235	45.3
1974	16,176	12,962	29,138	44.5

SOURCE: United States International Trade Commission.

TABLE 2(b)

Original-equipment motor-vehicle parts made in the United States or Canada: U.S. consumption of such articles, Canadian consumption of such articles, and United States-Canadian consumption of such articles, 1960-74.

Period	U.S. consumption	Canadian consumption	Total	Canadian consumption as a percent of the total
	Million U.S. dollars	Million U.S. dollars	Million U.S. dollars	Percent
1960	8,787	539	9,326	5.8
1961	9,867	523	10,390	5.0
1962	12,251	703	12,954	5.4
1963	14,037	921	14,958	6.2
1964	14,560	977	15,537	6.3
1965	18,781	1,270	20,051	6.3
1966	18,283	1,373	19,656	7.0
1967	16,170	1,508	17,678	8.5
1968	18,696	1,999	20,695	9.7
1969	19,804	2,317	22,121	10.5
1970	16,206	2,005	18,211	11.0
1971	21,607	2,390	23,997	10.0
1972	23,853	2,278	26,131	8.7
1973	28,118	3,114	31,232	10.0
1974	27,217	3,768	30,985	12.2

SOURCE;United States International Trade Commission.

TABLE 2(c)

Original-equipment motor-vehicle parts: Canadian production as a share of the transfer value of U.S.-Canadian production, by class of producer, 1960-74.

(In percent)

Year	Motor vehicle manufacturers	Independent parts producers	Total
1960	1.1	4.0	2.5
1961	0.9	3.7	2.2
1962	0.9	4.1	2.4
1963	1.0	4.8	2.7
1964	1.0	5.4	3.0
1965	1.2	5.5	3.2
1966	2.4	6.8	4.3
1967	2.9	8.5	5.5
1968	3.5	10.2	6.4
1969	3.7	10.1	6.5
1970	4.9	10.1	7.3
1971	5.1	9.8	7.1
1972	5.9	10.4	7.8
1973	5.5	9.2	7.2
1974	5.2	9.2	7.0

Source;United States International Trade Commission

TABLE 2(d)

CANADIAN PRODUCTION AS A SHARE OF TOTAL CANADA/U.S. PRODUCTION
OF CANADIAN-U.S. TYPE MOTOR VEHICLES*
CALENDER YEAR 1964 to 1974

(IN THOUSAND UNITS)

	CANADIAN PRODUCTION	U.S.A. PRODUCTION	TOTAL CANADIAN/ U.S. PRODUCTION	CANADIAN PRODUCTION AS PERCENT OF CANADA/U.S. TOTAL	CANADIAN ** CONSUMPTION AS PERCENT OF CANADA/U.S. TOTAL
1964	671	9308	9979	6.7%	6.8%
65	846	11138	11984	7.1	6.8
66	872	10396	11268	7.7	7.1
67	919	9024	9943	9.2	7.5
68	1150	10820	11970	9.6	7.0
69	1327	10206	11533	11.5	7.0
70	1159	8284	9443	12.3	6.6
71	1347	10672	12019	11.2	6.5
72	1474	11311	12785	11.5	6.7
73	1575	12682	14257	11.1	7.5
74	1525	10069	11594	13.2	9.8

Note; * includes passenger car,trucks and buses.
** for reference only, refer to table 6(a) for more detail tabulation.

Source;Statistics Canada;Automobiles Manufacturere's Association, Ward's Reports, U.S. Department of Commerce.

TABLE 3

CANADA / UNITED STATES TRADE IN AUTOMOTIVE PRODUCTS, Calendar year 1960-75

(IN $MILLION CANADIAN)

	1960	1961	1962	1963	1964	1965	1966	1967	1968	1969	1970	1971	1972	1973	1974	1975(Prel.)
CANADA IMPORT FROM U.S.	400	371	469	529	637	961	1487	2042	2847	3399	3065	3810	4477	5739	6753	7808
CANADA EXPORT TO U.S.	11	8	9	29	102	250	886	1520	2458	3309	3269	4040	4552	5299	5424	5903
TOTAL CANADA/U.S.AUTO TRADE	411	379	478	558	739	1211	2373	3562	5305	6708	6334	7850	9029	11038	12177	13711
CANADIAN AUTO TRADE SURPLUS											204	230	75			
CANADIAN AUTO TRADE DEFICIT	389	363	460	500	535	711	601	522	389	90				440	1329	1905
CANADIAN TRADE SURPLUS AS PERCENT OF TOTAL AUTO TRADE											3.2%	2.9	0.8			
CANADIAN TRADE DEFICIT AS PERCENT OF TOTAL AUTO TRADE	94.7%	95.8	96.2	89.6	72.4	58.7	25.3	14.7	7.3	1.3				4.0	10.9	13.9

SOURCE:Basic data from STATCAN

TABLE 4 (a)

CONSUMER PRICE INDEXES FOR CANADA & U.S.
ALL ITEMS & NEW AUTOMOBILE PURCHASES
(1967=100)*

	1960	1965	1967	1969	1971	1973	1974	1975
CONSUMER PRICE INDEX ALL ITEMS								
CANADA	85.9	93.1	100.0	108.8	115.6	130.3	144.5	160.5**
UNITED STATES	88.7	94.5	100.0	109.8	121.3	133.1	147.7	161.2
CONSUMER PRICE INDEX NEW AUTOMOBILE PURCHASE								
CANADA	105.9	97.6	100.0	102.4	107.9	110.6	118.4	123.4**
UNITED STATES	104.5	100.9	100.0	104.4	112.0	111.1	117.5	127.6

NOTE:

* Canadian Indexes standardized to base year 1967 for comparison purpose
** 1975 indexes for Canada are estimates

SOURCE:

STATS CAN & U.S. Department of Labour

TABLE 4 (b)

CANADA/U.S. PRICE COMPARISON
REPRESENTATIVE MODELS - SELECTED CITIES
1976 MODEL YEAR (INCLUDING FREIGHT)

	Suggested Retail Price		Canada Over United States		Tax Differences * Canada over United States
Chevelle Malibu Classic	Canada	U.S.			
8 Cylinder - 4 Door Sedan	$	$	$	%	$
Toronto/Cleveland	5290.00	4578.80	711.20	15.5	448.20
Winnipeg/Minneapolis	5436.00	4676.80	759.20	16.2	448.20
Vancouver/San Francisco	5488.00	4830.80	657.20	13.6	448.20
Saint John/Philadelphia	5434.00	4674.80	759.20	16.2	448.20
Pinto 2 Door MPG					
Toronto/Buffalo, N.Y.	3561.00	3154.00	407.00	12.9	316.00
Saint John/Bangor, Maine	3544.00	3174.00	370.00	11.7	316.00
Thunder Bay/Duluth, Minn.	3629.00	3225.00	404.00	12.5	316.00
Lethbridge/Great Falls, Montana	3621.00	3268.00	353.00	10.8	316.00
Vancouver/Seattle, Wash.	3549.00	3268.00	281.00	8.6	316.00
Ford LTD 4 Door Pillared Hardtop					
Toronto/Buffalo, N.Y.	5702.00	4977.00	725.00	14.6	469.00
Saint John/ Bangor, Maine	5863.00	5137.00	726.00	14.1	469.00
Thunder Bay/Duluth, Minn.	5829.00	5081.00	748.00	14.7	469.00
Lethbridge/Great Falls, Montana	5923.00	5229.00	694.00	13.3	469.00
Vancouver/Seattle, Wash.	5923.00	5267.00	656.00	12.5	469.00

CANADA/U. S. PRICE COMPARISON

REPRESENTATIVE MODELS - SELECTED CITIES

1976 MODEL YEAR (INCLUDING FREIGHT)

AT RETAIL LEVEL

	Suggested Retail Price		Canada Over United States		Tax Differences * Canada Over United States
	Canada	U.S.			
VOLARE 2 DOOR SPORT COUPE - 6 CYL.					
Toronto, Ont./Buffalo, N.Y.	$3,867.00	$3,440.00	$427.00	12.4%	$356.00
Winnipeg, Man./Fargo, N. Dakota	3,999.00	3,563.00	436.00	12.2%	356.00
Vancouver, B.C./Seattle, Washington	4,045.00	3,623.00	422.00	11.6%	356.00
Montreal, Que./Plattsburg, N.Y.	3,904.00	3,528.00	376.00	10.7%	356.00
Woodstock, N.B./Presque Isle, Maine	3,997.00	3,575.00	422.00	11.8%	356.00
CHRYSLER NEWPORT CUSTOM-4 DOOR HARDTOP					
Toronto, Ont./Buffalo, N.Y.	$6,400.00	$5,750.00	$650.00	11.3%	$543.00
Winnipeg, Man./Fargo, N. Dakota	6,576.00	5,894.00	682.00	11.6%	543.00
Vancouver, B.C./Seattle, Washington	6,634.00	6,046.00	588.00	9.7%	543.00
Montreal, Que./Plattsburg, N.Y.	6,437.00	5,858.00	579.00	9.9%	543.00
Woodstock, N.B./Presque Isle, Maine	6,571.00	5,929.00	642.00	10.8%	543.00

Note: On Par Value Basis

Source: Computed from Company Surveys

* Pertaining to Federal Taxes Only

TABLE 6 (a)

CANADIAN CONSUMPTION AS A SHARE OF TOTAL CANADA/U.S. CONSUMPTION OF CANADIAN-U.S. TYPE MOTOR VEHICLES*
CALENDAR YEAR 1964 TO 1974

(IN THOUSAND UNITS)

	CANADIAN CONSUMPTION	U.S. CONSUMPTION	TOTAL CANADIAN/ U.S. CONSUMPTION	CANADIAN AS PERCENT OF CANADA/U.S. TOTAL
1964	658	8968	9626	6.8%
65	754	10302	11056	6.8
66	758	9996	10754	7.1
67	738	9092	9830	7.5
68	779	10432	11211	7.0
69	788	10399	11187	7.0
70	622	8866	9488	6.6
71	739	10692	11431	6.5
72	844	11813	12657	6.7
73	1018	12592	13610	7.5
74	1087	9966	11053	9.8
1964-1972	6680	90560	97240	6.9
1964-1974	8785	113118	121903	7.2

NOTE:

* includes passenger car, trucks and buses.

Source: Statistics Canada and
United States Department of Commerce

TABLE 6 (b)

All U.S.-Canadian-type motor vehicles and original-equipment parts: Total Canadian value added in the production of vehicles and parts and total transfer value of U.S. and Canadian produced U.S.-Canadian-type motor vehicles, 1963-74.

Year	Canadian value added in motor vehicles and parts including Canadian value added in exported parts	Total transfer value of U.S. & Canadian produced U.S.-Canadian type motor vehicles	Canadian value added as a percent of transfer value of U.S.-Canadian-type motor vehicles
	Million U.S. dollars	Million U.S. dollars	Percent
1963	726	20,699	3.5
1964	888	20,381	4.4
1965	1,057	26,975	3.9
1966	1,062	26,194	4.1
1967	1,260	23,778	5.3
1968	1,508	29,877	5.0
1969	1,558	30,625	5.1
1970	1,662	24,653	6.7
1971	2,057	34,130	6.0
1972	2,367	38,352	6.2
1973	2,445	45,197	5.4
1974	2,697	40,604	6.6

SOURCE:

Committee on Finance, U.S. Senate

TABLE 6 (c)

TOTAL EMPLOYMENT IN THE AUTOMOTIVE PRODUCTS INDUSTRY IN CANADA & THE UNITED STATES (THOUSANDS OF EMPLOYEES)

	U.S.	CANADA	CANADA/U.S. TOTAL	CANADA AS PERCENT OF CANADA/U.S. TOTAL
1963	741.3	60.3	801.6	7.5
64	755.4	69.3	824.7	8.4
65	842.7	81.9	924.6	8.9
66	861.6	85.7	947.3	9.1
67	815.8	84.1	899.9	9.4
68	873.7	84.8	958.5	8.9
69	911.4	92.1	1003.5	9.2
70	797.3	83.4	880.7	9.5
71	842.6	93.4	936.0	10.0
72	862.8	98.7	961.5	10.3
73	944.5	110.2	1054.7	10.5
74	860.6	108.1	968.7	11.2

NOTE:

* Employment data based on Canadian Standard Industrial Classification (SIC 323-5) and U.S. 1967 Standard Industrial Classification (SIC 371)

SOURCE:

Statistics Canada, and U.S. Bureau of Labour Statistics

TABLE 8

NEW PASSENGER CAR SALES IN CANADA
AND THE UNITED STATES:
SALE OF NON-CANADIAN/UNITED STATES
TYPE AS A PERCENTAGE OF TOTAL SALES

	Canada	United States
1957	12.9	N/A
1958	20.5	N/A
1959	26.8	N/A
1960	28.1	7.6
1961	23.1	6.5
1962	15.0	4.9
1963	9.2	5.1
1964	10.7	6.0
1965	10.6	6.1
1966	9.8	7.3
1967	10.9	9.3
1968	14.1	10.5
1969	16.1	11.2
1970	22.4	14.7
1971	24.1	15.1
1972	23.9	14.6
1973	19.4	15.2
1974	15.5	15.7
Prelim 1975	15.5	20.1
Prelim 1976	16.1 (Jan-Feb)	13.8 (Jan-March)

Source: Statistics Canada, Automotive News and Wards Automotive Reports.

TABLE 9

FUEL ECONOMY GOALS FOR AUTOMOBILES

MILEAGE STANDARDS FOR NEW CARS 1980, 1985

(based on sales-weighted fleet-average)

	1980	1985
U.S. Standard (Imperial gallons)	24 mpg	33 mpg
Canadian Standard (Imperial gallons)	24 mpg	33 mpg

RECENT SALES WEIGHTED FUEL ECONOMIES

IN CANADA AND THE U.S. FOR NEW CARS

	1973*	1974*	1975**
Canada (miles per Imperial gallon)	15.9	15.5	18.3 (estimated)
U.S. (miles per Imperial gallon equivalent)	15.1	15.4	18.7

* urban cycle only

** combined cycle

SOURCE: Department of Energy, Mines and Resources

TABLE 10 (a)

PRODUCTIVITY IN TERMS OF VALUE-ADDED PER EMPLOYEE
IN THE AUTOMOTIVE PARTS AND ACCESSORIES INDUSTRY SECTOR
COMPARISON OF CANADIAN PRODUCTIVITY WITH THAT OF UNITED STATES, TOTAL & REGIONS (SELECTED YEARS)

		Value Added Per Employee	As Compared to 1967	As Compared With US Total
CANADA TOTAL	1967	US $ 10662	100	68
	1969	13552	127	72
	1972	18933	178	83
	1973	19538	183	82
UNITED STATES TOTAL	1967	US $ 15600	100	100
	1969	18700	120	100
	1972	22900	145	100
	1973	23962	154	100
NORTH EASTERN REGION	1967	$ 16300	100	104
	1969	20900	128	118
	1972	20700	127	90
	1973	21000	129	88
NORTH CENTRAL REGION	1967	$ 15900	100	102
	1969	18900	119	101
	1972	23700	149	103
	1973	25451	160	106
SOUTH REGION	1967	$ 13100	100	84
	1969	15800	121	85
	1972	19900	152	87
	1973	17876	136	75
WEST REGION	1967	$ 12100	100	77
	1969	14100	116	75
	1972	19400	160	85
	1973	17840	147	74

SOURCE: Basic data from U.S. Dept. of Commerce & STATS CAN
Comparison based on U.S. dollars: exchange rates from Bank of Canada

TABLE 10 (b)

WAGES COMPARISONS IN THE AUTOMOTIVE PARTS AND ACCESSORIES INDUSTRY SECTORS IN CANADA AND UNITED STATES (SELECTED YEARS)

		Wages Per Production Manhour	Growth Since 1967	As Compared With U.S. Total
CANADA TOTAL	1967	US $ 2.51	-	68
	1969	3.04	21%	73.
	1972	4.20	67	81
	1973	4.51	79	81
UNITED STATES TOTAL	1967	US $ 3.69	-	100
	1969	4.18	13%	100
	1972	5.20	41	100
	1973	5.57	51	100
NORTH EASTERN REGION	1967	$ 3.65	-	99
	1969	4.11	13%	98
	1972	5.15	41	99
	1973	5.18	42	93
NORTH CENTRAL REGION	1967	$ 3.81	-	103
	1969	4.33	14%	104
	1972	5.47	44	105
	1973	6.02	58	108
SOUTH REGION	1967	$ 2.54	-	69
	1969	3.06	21%	73
	1972	3.28	29	63
	1973	3.32	31	60
WEST REGION	1967	$ 2.84	-	76
	1969	3.09	9%	74
	1972	3.71	31	71
	1973	3.71	31	67

SOURCE: Basic data from U.S. Dept. of Commerce & STATS CAN
Comparison based on U.S. dollars: exchange rates from Bank of Canada

APPENDIX "B"

LIST OF COUNTRIES ENTITLED TO GENERAL PREFERENTIAL TARIFF TREATMENT

Afghanistan
Algeria
American Samoa
Antigua
Argentina
Ascension
Bahamas
Bahrain
Bangladesh
Barbados
Belize
Bermuda
Bolivia
Botswana
Brazil
British Indian Ocean Territory
British Solomon Islands
British Virgin Islands
Brunei
Bulgaria
Burma
Burundi
Cameroon
Cayman Islands
Central African Republic
Chad
Chile
Christmas Island
Cocos Islands
Colombia
Comoro Archipelago
Congo
Cook Islands
Costa Rica
Cuba
Cyprus
Dahomey
Dominica
Dominican Republic
Ecuador
Egypt
El Salvador
Equatorial Guinea
Ethiopia
Falkland Islands
Fiji
French Polynesia
French Southern and Antarctic Territories
French Territory of the Afars and the Issas
Gabon
Gambia
Ghana
Gibraltar
Gilbert and Ellice Islands
Greece
Grenada
Guam
Guatemala
Guinea
Guyana
Haiti
Honduras
Hong Kong
India
Indonesia
Iran
Iraq
Israel
Ivory Coast
Jamaica
Kenya
Khmer Republic
Korea, Republic of
Kuwait
Laos
Lebanon
Lesotho
Liberia
Madagascar
Malawi
Malaysia
Maldives
Mali
Malta
Mauritania
Mauritius
Mexico
Montserrat
Morocco
Nauru
Netherlands Antilles
New Caledonia and dependencies
Nicaragua
Niger
Nigeria
Norfolk Island
Pakistan
Panama
Papua New Guinea
Paraguay
Peru
Philippines
Pitcairn
Qatar
Romania
Rwanda
St. Christopher-Nevis-Anguilla
St. Helena
St. Lucia
Saint-Pierre and Miquelon
St. Vincent
Senegal
Seychelles
Sierra Leone
Singapore
Spanish North Africa
Sri Lanka
Surinam
Swaziland
Syria
Tanzania
Thailand
Togo
Tonga
Trinidad and Tobago
Tristan da Cunha
Tunisia
Turkey
Turks and Caicos Islands
Uganda
United Arab Emirates
Upper Volta
Uruguay
Venezuela
Viet-Nam, Republic of
Virgin Islands of the United States
Western Samoa
Yemen, People's Democratic Republic
Yugoslavia
Zaire
Zambia

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FIRST SESSION—THIRTIETH PARLIAMENT
1974-76

THE SENATE OF CANADA

PROCEEDINGS OF THE

STANDING SENATE COMMITTEE ON

FOREIGN AFFAIRS

The Honourable GEORGE C. van ROGGEN, *Chairman*

Issue No. 33

TUESDAY, MAY 11, 1976

Thirty-first Proceedings Respecting:

Canadian Relations with the United States

(Witness: See Minutes of Proceedings)

THE STANDING SENATE COMMITTEE ON FOREIGN AFFAIRS

The Honourable George C. van Roggen, *Chairman*

The Honourable Allister Grosart, *Deputy Chairman*

and

The Honourable Senators:

Asselin	Lafond
Barrow	Laird
Bélisle	Macnaughton
Cameron	McElman
Carter	McNamara
Connolly (*Ottawa West*)	Rowe
Croll	Sparrow
Hastings	Yuzyk

Ex officio Members: Flynn and Perrault.

(Quorum 5)

Order of Reference

Extract from the Minutes of Proceedings of the Senate, Wednesday, November 6, 1974:

"Pursuant to the Order of the Day, the Senate resumed the debate on the motion of the Honourable Senator van Roggen, seconded by the Honourable Senator Riel:

That the Standing Senate Committee on Foreign Affairs be authorized to examine and report upon Canadian relations with the United States;

That the Committee be empowered to engage the services of such counsel and technical, clerical and other personnel as may be required for the purpose of the said examination, at such rates of remuneration and reimbursement as the Committee may determine, and to compensate witnesses by reimbursement of travelling and living expenses, if required, in such amount as the Committee may determine;

That the papers and evidence received and taken on the subject in the preceding session be referred to the Committee; and

That the Committee have power to sit during adjournments of the Senate.

After debate, and—
The question being put of the motion, it was—
Resolved in the affirmative."

Robert Fortier,
Clerk of the Senate.

Minutes of Proceedings

Tuesday, May 11, 1976.
(39)

Pursuant to adjournment and notice the Standing Senate Committee on Foreign Affairs met at 3:05 p.m. this day.

Present: Honourable Senators van Roggen (Chairman), Barrow, Cameron, Carter, Connolly (*Ottawa West*), Grosart, Lafond, Macnaughton, McElman, McNamara and Yuzyk. (11)

Present but not of the Committee: Honourable Senator Cottreau.

In Attendance: Mrs. Carol Seaborn, Special Assistant to the Committee; Messrs. Bill Neil and Robert Robichaud, from the Library of Parliament, Research Assistants to the Committee.

The Committee continued its study of Canadian Relations with the United States.

WITNESS:

J. M. McAvity, President of Canadian Export Association.

During the course of his presentation the witness submitted the following papers for the information of the Committee:

a) From International Economics Policy Association and the IEPA Advisory Committee on National Resources:

"Interim Study of United States Natural Resource Requirements & Foreign Economic Policy", July 18, 1974, together with a "Summary of the abovementioned study" (*Exhibit #5A*).

b) From United States Senate Committee on Finance:

"United States International Trade Policy and the Trade Act of 1974", January 29, 1976. (*Exhibit #5B*).

c) From United States Senate Committee on Finance and House Committee on Ways and Means:

"Trade Act of 1974"—
"Summary of Provisions of HR 10716", December 30, 1974 (*Exhibit #5C*).

d) From the Subcommittee on Trade of the Committee on Ways and Means of the United States House of Representatives:

"Background and Status of the Multilateral Trade Negotiations", February 4, 1975 (*Exhibit #5D*).

e) "Canadian Trade Problems", paper submitted by the United States delegation (*Exhibit #5E*).

f) "COSTPRO—what it is and what it does" (*Exhibit #5F*).

g) COSTPRO Publication re: Second Bilateral Meeting on Trade Facilitation, Washington, D.C., February 12, 1976:

"Summary of Problems Reported in Conduct of Canada-United States Trade" (*Exhibit #5G*).

These documents were identified as *Exhibits Nos. 5(a), (b), (c), (d), (e), (f)* and *(g)* respectively and made part of the Committee's records.

At 5:40 p.m. the Committee adjourned to the call of the Chairman.

ATTEST:

E. W. Innes
Clerk of the Committee

The Standing Senate Committee on Foreign Affairs

Evidence

Ottawa, Tuesday, May 11, 1976

The Standing Senate Committee on Foreign Affairs met this day at 3 p.m. to examine Canadian relations with the United States.

Senator George van Roggen (*Chairman*) in the Chair.

The Chairman: Honourable senators, before dealing with the business of this afternoon, I might mention that when I was laid up in Vancouver last week with a rather bad bout of flu, Bill C-20, the citizenship bill, was referred to this committee. In keeping with the general Senate procedure whereby committees will give priority to legislation, we are going to have to deal with that bill forthwith. Let us hope, it will not be at the cost of postponing more witnesses than absolutely necessary on our current inquiry. I am thinking particularly of those witnesses whose calendars are very full and with whom we have had to negotiate for some time to find convenient days when they could attend the committee.

On your behalf, I have regretfully taken the liberty of advising the Canadian Importers Association, who were to attend next Thursday at 9.30 a.m., that we would have to postpone that hearing. We will start off with Bill C-20. on Thursday. The minister probably will not be available on that day, but we can certainly start examining the bill with his officials. In the following week we have two witnesses slated for this committee under the new block system where we alternate with the Finance Committee. Subject to trying to avoid conflict with the Finance Committee, where we have a number of overlapping members, I would hope that we could proceed next Tuesday morning, May 18, with the minister. Whether we finish our study of the bill next week would depend on the members of the committee and the extent to which they wish to go into it and, also, on any applications we may have from public interest groups who wish to make submissions. I might say we have not received any submissions as yet. Extensive submissions been made before the committee in the other place. It may be that we will not have those submissions repeated here.

If our study of Bill C-20 can be concluded next week, this would leave undisturbed the appointments we now have on our Canada-U.S. study for May 25 with Mr. David Culver, the President of the Aluminum Company of Canada and on Thursday, May 27, with Mr. Alfred Powis, President of Noranda who is also the President of the Mining Association of Canada. The Tuesday meeting is at 3 p.m. and the Thursday meeting at 9.30 a.m. I would hope that we could work Bill C-20 through the committee without disturbing either Mr. Culver or Mr. Powis. These are two gentlemen whose calendars are very full. We have taken some time to work their schedules into ours so that we could have them both before us. The next witness who I would hope would not be disturbed because of Bill C-20 would be the Minister of External Affairs, the Honourable Allan MacEachen, who has agreed to come before the committee again on June 7. This is not specifically relevant to this particular study right now, but it is to the follow-up to our study which resulted from Volume I.

If members are in agreement with those things that I put in motion in the last day or so in order to try to accommodate Bill C-20, we will press on.

Senator McNamara: Mr. Chairman, in connection with Bill C-20, I think you were unavoidably absent when it was debated in the Senate.

The Chairman: I was.

Senator McNamara: It was a good debate. Senator Forsey had very extensive criticisms of the bill. I am not capable of making judgments in those matters. It might be advisable if you, or the secretary, made sure that someone from the minister's staff, or a legal adviser, clarified those particular points Senator Forsey raised. Before the meeting could have the particular wording of the criticisms in our hands.

The Chairman: I appreciate your bringing that to my attention. I am aware of what Senator Forsey raised. I have read a summary of those points and have spoken to him over the phone. We have raised this question with the legal officers of the department and, also, with the legal officers of the Senate, who would like to bring before the committee the point of view of our own legal office, as opposed to the departmental officers. When we can hear them, or when they can get their submissions ready, is still in a state of flux. From what I have said, I hope that I have indicated to you that I am quite on top of it and moving as quickly as possible.

Honourable senators, as we move now from the statistical and other evidence that we have had before this committee in our study on Canada-U.S. trade from departmental officials and move into the field of industry, we are fortunate to have with us to give evidence the President of the Canadian Export Association, Mr. J. M. McAvity. Mr. Moore, the Secretary of the association, who was to accompany Mr. McAvity, unfortunately could not attend today because the flu bug has affected him.

Mr. McAvity has appeared before Senate committees before. He has been the President of the Canadian Export Association since 1963. Prior to that, at a very young age, he was President of Seagram Company in Canada, and a director of the parent company. I have learned that he has had a very distinguished record during the last war, being awarded the DSO and prior to that, for work in Canada, the MBE. Mr. McAvity comes to us, therefore, with a background in business and an extensive period of time as President of the association. He has a substantial volume of material which he has shown to me before the meeting was called to order, not all of which will be possible to include in the record. He would be happy to make it

available to individual members of the committee and to our staff. Following a presentation by Mr. McAvity, Senator Barrow has kindly agreed to lead off the questioning.

Mr. J. M. McAvity, President, Canadian Export Association: Mr. Chairman, honourable senators, I would like to follow what I understand has been your practice and make a presentation of something under 20 minutes. Then I would be very pleased to answer any questions about matters which I have raised and any other questions members of your committee would like to put forward.

It is a great honour and privilege for our association to be invited before this august body today. Your committee is to be highly commended for the thoroughness of its study of Canadian-American relations, and for the very high quality and objectivity of the Volume I Report. Your recommendations will have the full support of the many companies in our membership who have had reason to fear that an overwhelming preoccupation with the "third option" could be harmful to the relations they have with their American customers.

Copies were supplied to you a few days ago of a folder which summarizes the aims, activities and structure of our association; also of the brief which we submitted to the Canadian Tariffs and Trade Committee last year, in which emphasis is placed on the need to preserve the best possible bilateral arrangements with the United States. I do not propose to elaborate on these at this time, but will be happy to answer any questions you may have later on.

I think I have read the proceedings of all of your hearings to date. With your approval I would like to discuss certain aspects of Canada-United States trade which I think were not covered before, as follows: first, the changes in the terms of access and the trade environment resulting from the U.S. Trade Act of 1974; secondly, a summary of our association's initiatives relating to Canada-U.S. trade; thirdly, a brief review of the work being done to alleviate border-point problems by the Canadian Organization for the Simplification of Trade Procedures, commonly known as COSTPRO, in which our association's secretary, Jim Moore, is actively involved; finally, I would like to add some observations about the factors affecting corporate decisions on export production and investment planning, and their implications for the volume and composition of Canada's export trade in the years ahead.

Dealing with the first, the changing nature of the United States marketplace: in my 13 years with the association, I have found that many Canadian firms tend to look upon their shipments to the United States as domestic sales. The fact is that, despite its proximity and similarity, the American market has long been among the most difficult in which to develop business because of complex customs rules and procedures, the constant threat of anti-dumping action, and a variety of protectionist measures which can be, and are, imposed at the instigation of an unhappy competitor, pressure from American labour or at the whim of an unpredictable Congress.

The U.S. Trade Act of 1974, which became law on January 3, 1975, was launched as the basis of negotiations to lead toward a new era of trade liberalization. Over the past year, however, this act has come to appear more in the guise of a new crop of trade barriers. This is perhaps not surprising since it was drafted and steered through Congress against the background of the massive balance of payments deficit of August, 1971, successive declines in the relative value of the United States dollar and signs of an incipient recession.

Time does not permit a detailed discussion of the provisions of the Trade Act that are bothering all of the major trading nations today. If you do not already have them, I would be glad to leave three papers which I believe may be worthy of examination: a 25-page summary of the provisions of the trade Act of 1974; a 73-page paper prepared by the staff of the House Ways and Means Committee, dated February 4, 1975, entitled "Background and Status of the Multilateral Trade Negotiations"; a 39-page pamphlet prepared by the staff of the United States Senate Committee on Finance, dated January 29, 1976, which contains a summary of current events relating to United States international economic policy, the administration of the Trade Act of 1974, and the progress of the multilateral trade negotiations.

I also have two papers which I think may be relevant to your study. They may be more appropriate for the economists on your staff. One is the summary and the other is the complete report produced by a private sector body in Washington, known as the International Economic Policy Association. This is the Interim Report on a study of U.S. natural resource requirements and foreign economic policies. The smaller is a summary of the larger. Canada is frequently mentioned as being an important supplier of many of the essential industrial materials, such as non-ferrous metals, asbestos, et cetera.

It must be emphasized that this new trade legislation, the U.S. Trade Act, is not all bad. Many of its provisions are designed, to use the phrase so often quoted, to "clean up" world trade, to update the GATT rules so as to make them more precise and equitable as, for example, in the case of definitions of subsidies and rules or guidelines to cover retaliatory measures. However, the terms of access to the United States market have been made more uncertain and potentially difficult in various ways.

The new "escape clause" (Section 201) under which, if the International Trade Commission, that is the body that replaced the U.S. Tariff Commission, finds that imports are a substantial cause of serious injury or threat thereof to an American industry, the President is required, with certain exceptions, to impose some form of import relief—duty increases, quotas, quantitative restrictions or orderly marketing arrangements or, where so recommended by the Commission, he can impose adjustment assistance to take effect for the industry that is being hurt.

Section 301 gives the President new authority to act against unfair trade practices of other countries, and among those defined in this section are (a) tariffs and other import restrictions which burden, restrict or discriminate against U.S. commerce, (b) unjustifiable or unreasonable restrictions on access to supplies of food, raw materials, et cetera, (c) subsidies or other incentives for exports to the U.S., or for third markets where they may adversely affect United States commerce. It should be noted that among the targets are things such as our national and regional investment incentives.

Section 337 of the Tariff Act, as amended by the U.S. Trade Act, gives frightening powers to the International Trade Commission to deal with "unfair methods of competition and unfair acts in the importation of articles into the United States." From the viewpoint of foreign suppliers, this provision establishes a new and dangerous form of protectionism, in that imports may be barred or delayed as a result of marketing practices on the part of a U.S. import-

er, consignee, or agent of either, "the effect or tendency of which is to destroy or substantially injure an American industry, or prevent the establishment of such an industry."

Perhaps because of the recession and high level of unemployment last year, the International Trade Commission has already initiated 14 import relief investigations under section 201, and twenty-odd section 337 investigations of alleged unfair import practices. Six petitions under section 301 have been brought before the President's Special Representative for Trade Negotiations since January, 1975. According to a British publication, one-fifth of the European Community's exports to the United States were threatened, at one point last year, by investigations under the new or revised provisions of the Trade Act. Happily, punitive action has been taken in only very few cases to date, a trend which encourages the conclusion that Washington has set its course on trade liberalization.

I move now to things that our association has been doing in connection with Canada's trade with the United States. Because the United States is the most important market for most of our members, and for some the only export market, the association has devoted much time and effort to programs relating thereto. In light of the changes resulting from the Trade Act, and continuing changes in U.S. Customs rules and procedures, it is likely that these intitatives will receive even more attention as time goes on. We publish periodically a bulletin "US NEWS . . . OF INTEREST TO CANADIAN EXPORTERS" which covers new developments in U.S. trade policy, changes in rules and procedures of the U.S. Customs Service, anti-dumping regulations, et cetera, along with general marketing information. I have copies of these bulletins if any members would be interested.

We produce from time to time "Special Information Papers" on specific topics. I have brought along a sample of one produced less than a year ago, having to do with the impact on imports of "consumerism" measures that have been imposed in the United States.

We organize seminars dealing with major changes implemented by United States Customs Service, and smaller workshops aimed at educating the newer, smaller exporters on how to deal with the complex United States customs rules and procedures. In recent years we have submitted several briefs to the United States Tariff Commission and the Commissioner of Customs giving views on proposed changes that would be harmful to Canadian interests.

The Canadian Export Association staff monitors the *Federal Register,* which is like our *Gazette,* and the New York *Journal of Commerce,* and receives publications from the United States International Trade Commission and Customs Service and Department of Commerce. It maintains close contact with Canadian officials concerned with Canada-U.S. relations, the United States Embassy in Ottawa, the United States customhouse brokers along the border, the American Importers Association. We maintain a standing advisory committee of people in member firms who are experts on U.S. border-point problems.

In 1974 our association commissioned a study by the Battelle Columbus Laboratories of Cleveland, Ohio, the purpose of which was to evaluate the importance to the United States economy of American exports to Canada. This project was one of the results of a series of meetings in 1973-74 involving senior public relations executives in our member firms and senior information services officials in various departments of the government, where it was agreed that a report on the results of such a study might serve as a useful tool in the much needed strengthening of Canada's information program in the United States.

For various reasons, the Battelle study took much more time than anticipated. The massive report received from them last year was so complex as to be unsuitable for wide distribution. Only last month, a 46-page digest of the Battelle report has been produced with the cooperation of the Department of External Affairs and the Department of Industry, Trade and Commerce. I have one copy to leave with you, Mr. Chairman, and I could get more in the next few days.

The Chairman: Thank you. I think that would be most helpful to members of the committee.

Mr. McAvity: I could not bring the main report along. It would more than fill my briefcase. It is the size of the Montreal telephone directory.

The Chairman: I have a copy of it. I know.

Mr. McAvity: The message conveyed in this digest, in brief, is that while production in the United States for export to Canada is not a large part of their national output, it is of considerable significance to a number of industries in a dozen states. Copies of this digest are to be distributed in the United States through the Embassy in Washington and our consular posts in the United States. Companies in our membership are now being asked to indicate how many copies they wish to buy for their own distribution, and there will be more printed.

In the past 10 years, I have made at least one trip annually to Washington to visit senior U.S. government officials involved in formulation of trade policy. Encouraged by their cordiality and good will, I organized a seminar in Toronto in June, 1975, where 45 Canadian businessmen met for a full-day discussion of the objectives of the U.S. Trade Act of 1974, and of its implications for Canada. This opened with a comprehensive review of the subject by the principal author of the Trade Act, Harald B. Malmgren, who had retired not long before as the President's Special Representtive for Trade Negotiations. In the frank, off-the-record discussion that followed, senior officials in the Departments of Commerce, Treasury and the International Trad Commission, spoke freely and fielded many significant questions before the day wound up, shortly after 5 o'clock.

With the encouragement and assistance of our Washington embassy, and the United States embassey in Ottawa, the first Canadian Export Association Washington Roundtable was held on April 26 to April 28. Three dozen senior executives in our member firms took advantage of the opportunity to obtain a more intimate knowledge of official United States attitudes and policies pertaining to current global issues and Canada-United States relations, along with a thorough review of the prospects for the American and world economies. This round table differed from similar missions organized by the Canadian Institute of International Affairs, in which I have taken part, in several respects. First, our delagation was comprised entirely of executives in firms with a substantial interest in trade and or investment in the United States. Secondly, each delegate was provided in advance with background papers relating to the U.S. Trade Act of 1974, changes in American trade policy, and Canada-United States relations. In addition, a list suggested questions was included in the registration kit which each delegate received on

arrival in Washington. Thirdly, meetings were arranged only with U.S. officials concerned with trade and economic policy formulation and administration.

Judging by the feedback from many CEA delegates and from some United States government sources, the Round table was of good value and is likely to be repeated in the years ahead.

Time will not permit me to review the proceedings of our two busy days, following a cordial reception by the Honourable Elliott Richardson, recently appointed Secretary of Commerce, with senior officials in the Departments of Commerce, Treasury and State, the President's Special Representative for Trade Negotiations, and the Chairman and four Commissioners of the International Trade Commission. I will be glad to tell you about these discussions during the question period, if your time permits, Mr. Chairman, If they would be of interest, I would be happy to leave with you copies of the plans, program and list of CEA delegates who participated.

In conclusion, I would like to think aloud about some of the factors which I believe will have a more important bearing than tariffs or the foreign trade environment on the volume and composition of Canada's export trade in the years ahead. I am concerned about the factors which are influencing corporate investment decisions today and, in the case of transnational corporations, the factors affecting the allocation of production for export to other markets.

In most industries with significant growth potential, companies are expanding or investing in new facilities to supply the export as well as the domestic market. Except in centrally-planned economies, any government wanting to achieve export and industrial growth in its jurisdiction, be it national or regional, can do so only by adopting policies that will be clearly seen to create and maintain a climate in which a company can live and obtain an acceptable rate of return on its investment.

In the extractive industries, the corporate investor must go where his resources lie, and today new sources are being found throughout the world for most of the industrial materials which have long been the bulwark of Canada's export trade. Whether or not Canada will continue to rank among the top trading nations through the 1980s may well depend on the ability of the federal and certain provincial governments to restore investor confidence in this sector.

In secondary industries, the investor is generally free to assess all of the factors affecting the choice between alternative sites, and to choose the one that will best serve his interests. We must all be concerned about the fact that in recent years a growing number of Canadian manufacturers who have been exporting, some of them heavily, have set up plants in the United States, and to a lesser extent overseas, and that some multinational companies are tending to move export production away from Canadian plants. I have been advised that no record is kept in either Ottawa or Washington of these corporate initiatives or of the volume of business entailed. I have made inquiries from another source ... the person in charge in the Montreal office of the New York State industrial development and tourism business told me at the end of January that in that month he had received slightly more than double the number of inquiries of the biggest month that he had in the 12 years that he had been there. This to me is a shocking state of affairs and could not all be ascribed to the threat of the export levy because many of these are smaller companies.

Among the many factors which are influencing such decisions, there are market forces about which little can be done by either our federal or provincial governments. For example, a company doing business with a government agency in the United States may build a plant across the border to get around the Buy America Act provisions, which are still spreading. There are, however, many "restraints to growth" in Canada. On page 12 of the submission by Northern Telecom to the Bryce Commission, there is a list of some of the factors which have influenced that rapidly-growing company to establish a very substantial manufacturing capacity in the United States. Many of these have been mentioned by other companies to whom I have been speaking, looking for reasons as to why they, too, have started to develop, or have in the past year or two established plants across the border. The Northern Telecom brief lists the smallness of the market, the proximity of the United States manufacturing industries, competition from both domestic and foreign companies, the Canadian tariff structure, low level of labour productivity, high wage rates, long distances and high transportation costs, the availability and cost of capital, competition for management provided by United States companies today and, finally, government regulation. None of these is new. We could think of many more. Our association at present is in the process of setting up a Task Force of our own, hopefully to be comprised of executives who are involved in the decision-making process, having to do with either the allocation of orders for export where there are plants in more than one country, and companies such as Northern Telecom who have built, or are about to build plants outside of Canada, in large measure to replace exports from this country. We will be examining these factors and I hope that we have some sort of story put together to present to our annual meeting for discussion in front of a good representation of government people here at the Chateau Laurier on October 18-19.

In order to sustain growth of export trade, which is so essential in economic, political and social terms, something must be done soon to restore the climate and conditions that will resuscitate business confidence and at the same time bring the competitiveness of Canadian secondary industries into line with their competitors in the United States.

In a recent publication of the Conference Board in Canada, Dr. Arthur Smith points out the nature of the problems that will face this country if we do not soon come to grips with what he calls "the basic issue of international competitiveness." I suggest that the ability of this country to maintain an acceptable position in the Canada-United States economic relationship will depend more on Canadian performance than on United States policies. I have raised this line of thought in the hope that it may be worthy of future consideration by your committee.

Thank you, Mr. Chairman.

The Chairman: Thank you very much, Mr. McAvity. I know that I speak on behalf of the members of the committee in saying that we appreciate very much the obvious care you have taken in prepating this very comprehensive opening statement.

I now call on Senator Barrow to open the questioning.

Senator Barrow: Mr. McAvity, it is a pleasure for me, also, to welcome you here today. With your long connection with industry in Canada and your present position with the Canadian Export Association you are particularly

well qualified to give us a well balanced overview of trade relations with our biggest trading partner and to comment on some of our problems and, we hope to suggest solutions.

Your opening statement has undoubtedly answered many of the questions that I have had in mind. I would like to, however, ask you, knowing the large trade deficit that Canada has had with the United States in the past year—a trade deficit of over $2½ billion—what do you think are the causes of this present bilateral trade deficit?

Mr. McAvity: It would be very difficult to identify all of them. Certainly among the more important is the fact that demand in the United States is a terribly important factor when it comes to the Canadian export performance. Demand has been off in some of the important industries in the period under review. It is picking up in the United States now. It is hard for me to identify more than that. I do not know, frankly, the extent to which the level of the Canadian dollar exchange rate is affecting anyone's actual volume or dollar value of business. Companies are losing profits where the dollar exchange rate is a factor for them. I doubt if it would effect the actual volume of their sales. Productivity, relative cost, unit cost, I do not think have really shown up as yet. We undertook a survey of some 250 companies earlier this year. It would have started last fall but for the postal strike. We got under way late last year. The reports were summarized with considerable difficulty because of the confusion over the proposed export levy, in mid-February. A high proportion—from memory I would say 80 per cent—of the companies who responded to that survey indicated that they were looking at a higher rate of export, in dollar terms, in 1976 than they were in 1975.

The trade deficit, of course, has a lot to do with the Auto Pact. You have had some very knowledgeable witnesses appearing before you on that. I do not profess to be an expert on the statistics of that particular trade. I am afraid it is a very difficult question to answer. Perhaps more difficult is the question of how we are going to cope with the increase on that deficit, having to face the fact that we are in for a deterioration in our petroleum account. Some have estimated that deficit to run as high as $3 billion or $4 billion in the next few years. We are going to have to sell a lot of something to make up for that deficit.

Senator Barrow: Not a very happy outlook.

Mr. McAvity: We have to do something about it. We have been faced with problems before and I am sure we will find a way. It will take a lot of soybeans, Canadian Whisky, or something, to make up for $3 billion or $4 billion. It is a lot of money.

Senator Barrow: Do you think, as some do, that Canadian industry is costing itself out of the U.S. market?

Mr. McAvity: I do not think there is anything in that, at all. I have yet to meet a company, large or small, that has seemed to be fearful of going into the United States market. They do quite often back off from some export opportunity in a far off place across the seas. There are problems and increasing costs involved in developing a market overseas. We have 14 or 15 consular posts scattered across the United States. Our association tries to play up the important role played by our trade commissioners. I do not think Canadian companies who have the potential to export heavily to the Unites States have not had a darn good look at it. There may be reasons why they have not developed that trade. These are domestic reasons. One of the more common is the shortage of capital. Many companies scattered across the country have export opportunities open to them and do not have the working capital to finance the inventories and production. There is no way anyone can help them unless they get some additional capital. You cannot blame the banker. I can tell you of one example in the textile trade, involving seven figures worth of exports that a company in Montreal could take. The owner could do it if he wanted to take in partners, or sell his business, or get money in some way. He just does not want to be that big. Who is to blame him? It is a family operation.

Senator Barrow: You surprise me when you say the textile industry.

Mr. McAvity: That was one. I could name more. There is the canned goods industry, and a few others.

Senator Barrow: Jumping over to the negotiations taking place in Geneva concerning the GATT multinational trade talks, Canada apparently has presented a basic tariff-cutting formula with certain options which seeks elimination of duties below 5 per cent, and linear cuts in other categories. Does your association agree with the Canadian negotiating approach in Geneva where tariff reductions are sought in specific industrial sectors?

Mr. McAvity: In the brief we have submitted to the Canadian Trade and Tariffs Committee and in several subsequent discussions we have had with Ambassador Rodney Grey and others on our team in Geneva, we have taken the stand that is perhaps best expressed in the submission we have made. I have copies, if you wish, sir, dated July 8, 1975. Briefly, in part, we said that there were various reasons to support the view which seems generally to be held in the goods-producing industries in our membership, that the traditional objective of seeking tariff reductions should be given relatively low priority in the forthcoming negotiations. The reasons why are: first, the post-Kennedy Round experience has demonstrated that tariff cuts are useless as long as nations are free to negate them by raising non-tariff barriers; second, as a result of the reductions achieved in the Kennedy Round and earlier negotiations, the importance of the tariff as an obstacle to trade has been substantially reduced; and, finally, perhaps more importantly, that because of currency exchange fluctuations and widely varying degrees of inflation in the various trading nations and the unprecedented increases in transportation costs in recent years, the tariff has become a much less significant factor in the delivered price. We went on to give our views supporting them in this idea of a sector approach. We asked them to put forward to the industries concerned, as soon as they could, just what their objectives were and which sectors would be affected.

I think the important issue, so far as the negotiation of tariffs are concerned, is the American proposition which went in only in the last couple of months—I think in March—which again states the position and the powers given to the negotiating authority over there. This is now the thing that is being taken up with the other major trading nations.

Senator Barrow: Are you saying that you support the United States view?

Mr. McAvity: We did not state it because we did not know the U.S. view until only a few weeks ago. It is much along the same line as ours. It is toward the reduction of tariffs. The Americans are prepared to have a reduction of 60 per cent. Their earlier policy stated that they would be

willing to go to zero on tariffs on 5 per cent or less. Significantly, that reduction to zero on the 5 per cent or less did not appear in their formal presentation to the GATT. Our people are asking why. A very high proportion of our trade, as you know from earlier testimony, is in that low tariff area of 5 per cent and under.

The Chairman: Senator Barrow, the point I think you are trying to get to with this witness is concerned with the American proposal of the total reduction of the 5 per cent and under, as opposed to our sector approach.

Senator Barrow: That is right.

The Chairman: It would be interesting to have Mr. McAvity's view.

Mr. McAvity: It is not opposed. The sector approach has been proposed in Canada and more recently by the United States. They are the only two nations that have proposed it. It has been proposed by our people in the Tokyo meeting, which started the whole thing, as a complementary or supplementary technique to be used in the tariff and non-tariff barrier negotiations. It is to be combined. Our objectives were associated with Canada's desire to add to the value of our resources before export. The chances of success in this are still anybody's guess. We asked questions at the round table discussions in Washington about it. There are many discussions going on with people who are back home from Geneva. I could not attend a meeting last week with Mr. M. G. Clark, who is the right-hand man of Rodney Grey. It is hard to say what the reaction will be of those important trading partners who are the buyers of our resources. They want their factories to keep on getting supplies. If they cannot buy them from Canada, are they going to turn to other nations which are now developing similar resources? These are the problems that our negotiators will be faced with. We wish them well. We think it is a good thing to use the sector technique in discussions on tariffs, not as the basic tariff-cutting hypothesis, but as a supplementary process.

Senator Barrow: Should this be confined to just resources or metals? Should it be expanded into chemicals and heavy electrical machinery?

Mr. McAvity: It is my understanding that they have indicated already that they are going to talk about copper. Discussions have already begun on that and have been made public. I do not know beyond that. They are talking about what a whole industry would like—say in forest products down to a paper box, or fine paper. It would go right down through the processing industries. The further down you go, the higher become the tariffs in the system which has long been the vogue.

Senator Barrow: Is your association pressing for particular U.S. tariffs to be reduced, for example, on processed fish products?

Mr. McAvity: We have not been making any specific recommendations.

Senator Barrow: Can you tell us to what extent Canadian exporters are disadvantaged by high Canadian tariffs on certain imported components which make their final exported product more expensive and less competitive?

Mr. McAvity: Components that are going into an assembly to be exported are not a bacic problem, because of the availability of duty drawbacks. It is a system that is now working very well. The high cost of machinery, processing equipment and other things is a factor. It has a bit to do with investment decisions. Three years ago a company in Ontario was looking at a $6 million or $7 million expansion in new plant. Among the things that caused them not to put it in Ontario was the cost of the machinery they had to bring in. It was not made in Canada, so they could get relief under the special machinery import program. Then they found however that they were up against a 5 per cent sales tax on machinery imposed by the province of Ontario. Generally speaking, this is the kind of problem one faces. I would not say that it is an important factor where the component is brought in to go as part of an assembly that is later exported.

The Chairman: As opposed to being part of a process, where it does become a factor?

Mr. McAvity: Processing materials could add to your cost and it adds to the unit cost of production which is what you are competing with.

Senator Connolly: Do you mind a supplementary on that point? Are you a clearing-house for people who require information of that kind when they undertake or consider a large expansion? I am speaking now of customs information and taxing information.

Mr. McAvity: I would answer that by saying we did not start out that way, but that is how it is working out today. I am safe in saying that in the last year half a dozen fairly important company people have come to me to ask for advice about such decisions, or at least some aspects of them. We have kept a pretty close monitoring of the American tax situation. I am not an expert on DISC, but I have all of the papers and know where to go. We know a law firm in Washington that has become very close to it. We do get calls of that sort.

As I mentioned in my closing comments, this is of greater concern to me when I go out to speak to university students. I have done this twice since the turn of the year. I worry from their point of view about the next generation. We have to keep replacing present plant equipment and adding to it, if we are to achieve export growth. Capital formation is one thing. Having got our capital formation problem licked, how do we then persuade companies to put it here, instead of somewhere else. It applies to both resource and manufacturing industries.

Senator Barrow: Mr. McAvity, the Economic Council recently recommended that Canada should seek free trade arrangements with its major trading partner, in other words the United States. If this were not possible, it should consider reducing tariffs unilaterally. Has the association any views on this suggestion and, in particular, how far should Canada go in the direction of free trade?

Mr. McAvity: It is very difficult for me to give you one answer for the entire association. As indicated earlier, and as you will see in the brochure describing our group, we have a very wide cross-section of industries in our membership. What would please the chief executive officer of a large forest industry, for example, might do the exact opposite to somebody in the electrical machinery, fine paper, or textile business. Generally speaking, the people who join our association have an export interest, or else they would not belong. The export interest may vary from only 2 per cent or 3 per cent to 100 per cent of their output. There is no one view. We have rationalized and perhaps compromised. I think all of the people in our association have gone along with the views expressed when we met

with the Economic Council. We did not submit a brief to the Council, but we did have a discussion with the Chairman and three or four of the senior people who were the authors of that paper. We met several times before and following its publication. It is very difficult for me to give you a cross-section of opinions in the time given and I am not authorized to do so. I know the president of one large manufacturing company which is a big importer with 10 per cent of its production now being exported. It is a Canadian subsidiary of a very large worldwide company. He made the comment that he would be happy about free trade in manufacturing industries between Canada and the United States as long as his province has three congressmen and two senators sitting in Washington. There are a lot of political implications.

On the economics, one could make a very good case. I think, for example, we would not be bothered with so much inflation. There are a lot of things going for it. At this point I am not prepared to answer the question intelligently on behalf of the whole association.

Senator Grosart: A supplementary, if I may, Mr. Chairman. Is there any difference between reducing all tarriff and non-tariff values to zero and free trade?

Mr. McAvity: No. That is what free trade implies, the removal of all barriers, including non-tariff barriers and obstacles. But to remove all non-tariff barriers, including government purchasing practices and everything else that goes with it is a pretty big order. The GATT book has 1,000 or more defined non-tariff barriers. I think that is wishful thinking.

Senator Grosart: If there is no difference, how do you decide where to stop? Do you stop at 5 per cent, 3 per cent, or 8 per cent? Is it feasible to carry on talking about lowering trade barriers if you do not go for free trade? What is the sense of it?

Mr. McAvity: I agree with you. Looking back over a dozen years now I am also convinced that the tariff element is becoming less and less significant.

Senator Grosart: I should say all protective measures in the domestic market.

Mr. McAvity: There might be other instruments of national policy such as manipulation of exchange rates. Ocean shipping costs are becoming a pretty frightening deterrent for some commodities today. One newsprint man told me that the component of transportation, inland and ocean freight, in shipping goods from here to South America had gone up from something like 10 per cent before the worldwide energy crisis, to something over 33-⅓ per cent now. These factors are important. They are more important than a 2 per cent or 3 per cent tariff hike.

Senator Grosart: It all depends what you mean by "free" and what you mean by "trade."

Mr. McAvity: I think you are right.

Senator Barrow: Mr. McAvity, do you think the Canadian tariff peaks could be or should be reduced unilaterally without corresponding cuts by other major trading countries?

Mr. McAvity: Tariff peaks? The high tariffs? This is always a problem. Those industries in Canada that have excessive or above average tariffs are clearly the ones who claim they need them. There are a number of examples with which you are familiar. If you are asking should they be reduced, this is a question of economics.

Senator Barrow: I have asked should they be reduced unilaterally.

Mr. McAvity: It is being done in very few cases today. Generally speaking, these are put on the table in multilateral negotiations and something is achieved in return. I do not think it would be realistic to expect a country to come out and volunteer to cut its tariffs down, or to be forced to by some major trading partner.

Senator Barrow: In connection with non-tariff barriers, there seems to be an increase in U.S. countervailing and anti-dumping actions. It causes one to wonder if this is indicative of a trend. Does the association consider that U.S. anti-dumping and countervailing actions have been applied more severely and more frequently?

Mr. McAvity: There has been an increase in the number over recent years. I have not got the exact statistics. But happily, particularly in the case of Canadian anti-dumping actions, the large majority have come out negatively. There has been no punitive action taken. The only case of countervail, that I can recall from memory was the famous Michelin case. That did not really hurt Michelin's production or total volume of exports. They simply tacked on a little. It was an inflationary factor to those who wanted to buy their tires in the United States. Generally speaking, there has been an increase in both countervailing and anti-dumping. As I said earlier, there seems to be a trend today under the Ford administration to find fewer cases meriting punitive action.

Senator Barrow: Does the association support the government's efforts to press for injury provisions to become part of the U.S. countervailing indices?

Mr. McAvity: We have. It is contained in the brief to the Canadian Trade and Tariffs Committee, a copy of which we submitted to your staff a week ago.

Senator Barrow: It has been suggested that there could be future conflict if the Canadian government was considered to be distorting trade and normal trade markets through subsidies and support schemes. This is what happened with Michelin. Does the association think Canada should approach this issue?

Mr. McAvity: Whether Canada wishes to, or not, it is on the table in Geneva. In these papers that I am proposing to leave with your staff on the U.S. Trade Act, you will see that one of the United States' major objectives is to have international agreement achieved during this round of negotiations, first, on the definition of what constitutes a subsidy that shall be liable for retaliatory action, then get along to determining what rules should govern the retaliatory action. So it is very much on the table. As I said in my opening remarks, investment subsidies are very much to the fore. They are looking at such things.

Senator Barrow: Does the association think that the U.S. export subsidy program DISC has given U.S. exporters a competitive price advantage?

Mr. McAvity: We have a great deal of information on that, Senator Barrow. I have not had time to read all of the recent material that has come to my desk following public hearings held by congressional bodies in Washington earlier this year. From memory, the ability of a company with a DISC to reduce its price, that is to say the tax saving that

can be passed on to a foreign customer if they wish, depends heavily upon the capital intensiveness of the industry. The producer loan that can be made by a DISC to a related manufacturing company which can qualify to maintain its tax deferral benefits, is a very important factor, particularly in capital intensive industries. It was indicated that there was a saving of some 4 per cent to 5 per cent that they were capable of passing on. There is a great deal of material which we are at present putting together. I have one research man working on this. We hope it will be the subject of a special information paper during the summer. DISC is still under the gun in the United States. There are people in labour movements and Congress who want to do away with it. It has been modified since its original presentation in 1972. But it is still very much there.

Senator Barrow: Would you think that this non-tariff barrier is comparable to the regional subsidies that have been given in Canada?

Mr. McAvity: No, it is not really the same. Here, for example, the Turner measures, the so-called 40 per cent tax rate for manufacturing and the fast write-off provision were really a sort of counterpart to DISC there. Those of you who are familiar with the so-called Tax Reform Act will know, also, that we have moved in the opposite direction from the DISC by removing the tax-free benefits from offshore subsidiaries set up as bona fide sales companies. They used to provide a benefit which was very much like what DISC now provides in the United States. As of January 1 this year, that ceased to exist, except in cases where the foreign subsidiary is located in a country with which we had a tax treaty signed by last December.

The investment tax credit and other arrangement should also be compared. One important thing I found in my investigation of companies moving to put plants up in the United States is their method of financing through tax-exempt bonds. It is very cheap money by comparison with what you have to pay up here for plant and equipment.

Senator Connolly: State bonds?

Mr. McAvity: State bonds. In some cases I understand municipal. There are also some county authorities. I have not got the list of them, but I am in the process of getting it. I inquired in Washington two weeks ago. It could be one answer to our capital formation problem.

Senator Barrow: Mr. Chairman, I do not want to monopolize the witness. If there are any others who have questions they wish to ask, feel free to interrupt.

The Chairman: I will invite you to continue, Senator Barrow, unless there is any senator with a particular question who must go on to another committee.

Senator Grosart and Senator Connolly, if you have questions I could ask Senator Barrow to give way at this point and let you go ahead.

Senator Connolly: I will be very short, Mr. Chairman. I wonder if Mr. McAvity would give us some information about the number of members in his organization and what sectors of the economy they are in.

Mr. McAvity: At the moment our membership is something in the order of 450. Quite frankly, we have had a difficult time printing a new membership roster because it has been going up for quite some time. We have lost some through mergers and small companies dropping out.

As to sectors, we have a very wide range in the prmary industries. But we do not have the very large interests in the fishing industry, for example. Neither the east nor the west coast fisheries people seem to go much beyond their own fisheries organizations.

In secondary manufacturing, we have a very wide range down to and including ladies' apparel. We have agencies, export trading houses, consortia which have been formed—especially for foreign capital projects on a continuing basis and others who export goods and/or services, consulting engineers and construction companies. We have some three dozen of the major consulting engineering firms. We also have those who provide essential services, banks and other financial institutions, including a number of foreign banks, like the British and others who have moved in here, agencies, factoring houses. We have all types of transportation, air, surface, ocean. We have agencies like freight-forwarding, et cetera. I would be very happy to leave information for future reference. This is a copy of this year's board of directors and the policy committee. There is a total of some 50 people. These lists will give you a good idea of the nature of the people and the kind of industry that we have.

The Chairman: You did not mention resource industries.

Mr. McAvity: I said we have virtually all. We have forest, mineral, asbestos, and so on, with the exception of the fisheries. We have not been successful in really attracting and holding the major companies in the fishing industry. We do not go out and beg them. On both the east and west coast they have their own fisheries organizations. I might say the marketing board setup has helped to cause a decline of our membership. Some of those who were in the fish exporting business have found their jobs dwindling away because of marketing board operations.

Senator Connolly: I take it that your main interest is towards the United States marketing.

Mr. McAvity: No. I would say that for the past few years we have fully supported the government's ambitions to diversify and reduce dependence upon United States markets. We have spent, for example, a great deal of time—and we have set up new committees such as the one on foreign capital projects with some of our top construction, consulting engineering and capital goods firms, along with banks and other institutions—to see what we can do toward winning more of the huge offshore contracts in the Middle East and other places. This is a very time-consuming effort. I spend a lot of time on that myself. We have many who work on development aid. As you know, there are many hundreds of millions of dollars worth of commodities sold in our aid programs. On June 9 we will probably have some three dozen senior executives, mostly at the level of vice-president, those in their companies responsible for negotiations of these aid transactions meeting in Ottawa with the President and senior officers of CIDA. We have another body that works entirely with trade commissioners. Here we are trying to help develop exports to Africa, Southeast Asia, and elsewhere. We are putting on a seminar on June 14 in cooperation with the Department of Industry, Trade and Commerce on new opportunities across the Pacific. Here we are getting private sector members of the Ministerial mission to Indonesia and other countries of just two months ago. So we do spend quite a bit of our time dealing with the business of overseas markets. I might say that in my capacity as Chairman of the Canadian Shippers' Council a body for which we pro-

vide the secretariat, I spend a good deal of time trying to find ways of improving ocean shipping services. The council meets with the owners' committees of conferences serving both the east and west coast. So we are spending a lot of time on markets other than the U.S.

Senator Connolly: In that global kind of work I take it that your prime purpose is to service Canadian producers throughout the economy with information that would help them establish markets abroad.

Mr. McAvity: To "help them establish" is a broad term. First, we put people in touch with one another. A trading house in Canada might hear of an opportunity somewhere else and we try to arrange meetings of the interested parties. This sometimes has resulted in a new project. We also try to help them to find out how to go about it and who to see in banks, government, and sometimes in shipping.

Senator Connolly: Government trading companies, too, I suppose.

Mr. McAvity: Not government trading companies. I am talking about the private trading enterprises of which we have quite a few dozen in our organization.

Senator Connolly: To the extent that government trading organizations can affect the market by purchasing abroad, you would advise your members about dealings with them.

Mr. McAvity: With the foreign government trading companies, very much so. This applies particularly to state trading countries. I keep a fairly close personal touch, for example, with the U.S.S.R. trade people in the embassy in Ottawa, and with others of similar nature. We are constantly advising people in our bulletins on how to approach these authorities

Senator Connolly: Where in the private sector is the main area of interest for the Canadian producer? It probably would be the American market. Therefore, the pitfalls and difficulties of entering that market are perhaps the main concern of the Canadian exporter.

Mr. McAvity: It is a very good question. Before dealing with it, I should point out, that there are several industries, such as the chemical industry and the electronics industry where over one-half of Canada's total exports were accounted for by foreign-controlled companies located in Canada. This is a function of the rationalization programs that corporations are making today. In some companies there are certain products made in Canada for worldwide distribution. In some cases they may be excluding the United States and in others they may be including it. It depends entirely on company decisions.

To a growing extent, corporate decisions have influenced trade more than government policies. Now there is a trend whereby the OECD is trying to bring a sort of a code of behaviour for multinational enterprises into place, to enable them to get along more amicably with the increasing trend of nationalism in so many countries around the world.

To go back to your question, there are some companies who do not export to the United States at all. Some of those were set up in the 1930s to supply the Canadian market and to take advantage of the old British Commonwealth Tariff Preference. I can recall, as a boy, selling glass containers to the H. J. Heinz Company in Leamington, when they first started. Was it a treat! It took us weeks to find somebody to buy a carload of bottles and then all of a sudden, Mr. H. J. Heinz comes in and starts buying hundreds of carloads of bottles to ship all over the world, other than the U.S.A. That is still prevalent today in some industries. I think the situation depends largely on the competition in the United States. Here it may not be competition from American companies only. There is very heavy competition in some industries from others such as Japanese manufacturers who may, as a matter of company policy, decide they are going after a certain share of the great American market and do it via the price method. They did this with certain household appliances—whether television or stereo, I have forgotten which, five years ago in Europe. It was written up in *Fortune* magazine. Competition is a very big factor.

Senator Connolly: From what you say, is it right for us to conclude that the Canadian producer is in practice showing an increased interest in the third option? In other words, the diversification of exports so that they will not be concentrated on the American market, but on other markets of the world.

Mr. McAvity: That would be difficult to answer in a general way because you will find a great deal of difference of opinion about that. Certainly one has to say that there are more Canadian companies selling more goods today to more countries around the world than there have been at any time in the past. The statistical records show commodities by countries on the export side. You can see a constant increase in most of our products; the figures for secondary as well as resource industries are going up. That is the trend. However, there are many whose bread and butter lies in the U.S.A. They may be exporting everywhere else, as well, but the bread and butter market is in the U.S. I cannot say that they are increasing in their love or enchantment for the third option. They are concerned sometimes about the tendency to overplay our hand there and perhaps develop a feeling in the United States that there may in fact be anti-Americanism in this country. It was expressed well by one of your colleagues, Senator van Roggen, the head of the British Columbia Council of Forest Industries, recently, when he urged the government to lie low on this, because statements by government spokesmen were causing hard feelings in the private sector in the United States. I agree with that.

You will remember the famous speech in Denver, Colorado, by our former Secretary of State for External Affairs. It confused the issue very much at that time, then—and I believe it was in 1967—another member of the same government made a speech in New York and painted an entirely different picture. So who are the Americans to believe?

Senator Connolly: Who are we to believe?

Mr. McAvity: One of the things I appreciated most in reading your report was the strong recommendation for a build-up and improvement in our government's information program. This is something that we have been working at for years, with too little success to suit me.

Senator Grosart: Mr. Chairman, on the same subject, I wonder if I could ask Mr. McAvity if it is his understanding of the third option that it is to be Canadian policy to reduce the percentage of our exports going to the American market?

Mr. McAvity: No. My understanding of that famous White Paper on Foreign Policy and the third option was that we would try to retain our United States market, while trying diversify elsewhere. In other words to reduce our dependence by increasing our exports elsewhere.

Senator Grosart: I am afraid that is not a satisfactory answer. It is ambiguous. What I am asking you is this; is it the policy, as you understand it, of the third option to reduce the percentage of our total exports to the American market?

Mr. McAvity: Categorically, I say it is not my understanding. It is quite different, for example, from the intention expressed in the speech made in Dartmouth University in the United States in 1957 by the then Conservative leader of our country when he said that he was going to see that there was a 15 per cent reduction in our trade with the United States.

Senator Grosart: He did not say that.

Mr. McAvity: That is what I read.

Senator Grosart: He did not say that.

Mr. McAvity: I am sorry, Senator Grosart. There is a difference there.

Senator Grosart: I am asking a simple question. I am merely asking if it is your understanding that it is Canadian policy to reduce the total percentage?

Mr. McAvity: No, senator.

Senator Grosart: If not, how can there be any diversification? If we are not going to reduce that 70 per cent, then we are only playing around with the other 30 per cent diversified amongst other countries.

Mr. McAvity: You are suggesting that we are going to stand still in export trade?

Senator Grosart: I am talking about the percentage of our total exports which is now about 70 per cent. I said "percentage" six times. I asked the minister this and he said no. You will remember that, Mr. Chairman. I want to know what we are diversifying. What is the other 30 per cent? How can this become a so-called third option?

Mr. McAvity: You know what the other two options were. This is the third.

Senator Grosart: There were a couple of strong ones.

Mr. McAvity: That is what I am saying. I see what you mean now. I am sorry to have been so vague before. It is my understanding that as our exports grow, we would like to see them grow offshore, as against growing so much in the United States. In effect, it would be reducing the percentage of our total expanding trade. Instead of being 70 per cent, it would become 60 per cent to 5 per cent, but of an expanding trade.

The Chairman: Not less in total dollar amounts.

Mr. McAvity: Not less in total trade.

Senator Grosart: That is the point I am making. In terms of the overall export business in Canada, would you say this is a good way to go? That is to say that we will deliberately try to decrease the total percentage of exports going to the United States? If it is policy, it must be deliberate.

Mr. McAvity: Is it realistic that we could expect to achieve it? Is it going to be costly? I am going to answer negatively on both of those. I think it is going to be quite unrealistic because I think there are many factors over which this government, or any government in Canada whether federal or provincial, does not have enough control. Secondly, I think that production costs and all of the other factors are against us. I think these are worhtwhile objectives, but I sometimes wonder whether the amount of money spent in overseas promotion is going to pay off in the long run. This is not to say that I am not in favour of it. There are many private sector dollars being spent quite lucratively for huge foreign contracts. This is where the big ticket trade is today, in the foreign capital goods and capital projects transactions. I think we should keep trying to develop our overseas markets as well as we can. I can remember well a very good friend of mine who was caught—and this was about 1938—in a manufacturing business where he suddenly found himself whth a very high propotion of business tied to one food chain store. His friend, the purchasing agent left, new management came in and did business elsewhere and he was practically put out of business because he did not have any other customers to fall back on. For the same reasons, I think we are wise to try and diversify and get our eggs spread over more baskets.

Senator Grosart: That is the usual phrase. Do you think there is any likelihood of it happening?

Mr. McAvity: It is happening. We are improving our share. The extent to which we are going to be able to increase those exports that we want to increase, as against simply shipping raw materials to, say, Japan is a very big question. It is depending, as I said, more perhaps on our own performance than on our foreign policy. We have to get out there and compete for it. At the moment we have hit a pretty low point in competitiveness.

Senator Grosart: That is not really the answer to my question. Do you think it is possible or is it likely that we will deliberately give up that 70 per cent in that one market, from the practical point of view of the export economy, and so on?

Mr. McAvity: I am not sure what you want out of me. We are not going to give up any business to the United States. We are going to grab all that we can get, as I see it.

Senator Grossart: Are we going to give up that percentage? When I go to Europe people say, "What are you talking about?"

Mr. McAvity: I get the same thing.

Senator Grosart: "Have you got 10 per cent to give" We will take it. If you have 70 per cent and want to drop to 60 per cent, we will take the 10 per cent. Give it to us". That is why I say I cannot understand this third option.

Mr. McAvity: We have recently had a group sit down with our ambassador to the Community. We have talked to government people about it. I do not know if we have any real answers to your questions as to its viability. Some companies are succeeding.

Senator Grosart: Some will. Some will not.

Mr. McAvity: Some will. I think it is good that they should. But it may be a very difficult goal to achieve, particularly if shipping remains in the state it is, and if the

economies of other countries and the political situation in such countries as Italy, Portugal and other places do not soon improve. I was in three countries in South America in November. It is very difficult to see how we will do anything to improve our exports to those countries. In many of what I would call top tier developing countries, in Brazil, in Mexico, and many more, governments are becoming more and more preoccupied with import substitution programs. They are going to go on doing so for the same reasons that we are trying to boost exports and cut down imports. We all have very serious balance of payments, national economic and unemployment problems. It is going to be quite a time before we see a major change.

Senator Grosart: In a recent speech the American Ambassador said:

> Trade between us in commodities is far more balanced than we have thought, the legacy of disparity is still with us, yet a new symmetry is emerging.

What did he mean?

Mr. McAvity: I have not had a chance to ask that ambassador. I am looking forward to doing so. As I recall the rest of the text from which you have quoted, he talked about the fact that Canada is buying an increasing amount of certain things, like coal, from the United States. He goes on to indicate that they have also, even though heavily dependent on our forest industry, developed in the southern states a forest industry with exports very nearly equal to their imports from Canada. That could be the new symmetry. It was a very interesting speech, particularly when it came to the investment dollar flows.

The Chairman: Senator Grosart, not to interrupt your trend of thought, but relative to that same speech to which I also listened with great interest, my best recollection is that the ambassador gave one or two examples of the kind that would lend support to the witness' answer. That is, namely, that the concept that we are simply exporting resources to the United States and getting our manufactured goods from them is changing quite dramatically. The trade is now in both things, both ways, if that produces some symmetry.

Senator Grosart: He says "It is far more balanced than we have thought." I wonder who is "we", and who is "thinking". It is a strange statement. The statistics have been there forever. I will leave it. I do not want you to interpret the ambassador.

The Chairman: I think he has to say more balanced than we are accustomed to perceive.

Senator Grosart: Or he may have meant that we had thought. I was just wondering if there was some hidden meaning in it that I have not caught.

Is the totality of the protection of the Canadian domestic market any reater than the totality of the protection of the American market vis-à-vis Canadian and U.S. trade?

Mr. McAvity: I would dearly love to be able to answer that question. I have read, as I know you have, papers that have been prepared for the old Private Planning Association on effective tariffs. I have read about the subsidization of Ontario manufacturers by the cheap hydro rates, and so on and so forth. I really do not have a clue, frankly, as to howone would go about adding it all up. The totality in Canada, for example, wuold have to include such things as the local government purchasing practices, and all the rest. I really do not know how that question could be answered meaningfully by me.

Senator Grosart: The reason I ask it is that a good part of your presentation obviously and understandably was concerned about the totality of the protection o the American market against Canadian goods. What would interest me is finding out if it is our fault and if the Americans are matching us, or if we are matching them? Are we both on the same roundabout?

Mr. McAvity: This gives me an opportunity, Senator Grosart, if I may, Mr. Chairman, to bring in something which, in error, I missed. This has to do with protectionism. I indicated in my earlier statement that I was going to mention briefly about the organization known as COSTPRO. I passed over it because I did not have it in my own notes. I was to have turned to our secretary, Jim Moore, who is not here. I will not bore you, or take your time, to define what COSTPRO is. I have a pamphlet here which I would be very pleased to leave with you, and I can get more if you wish, sir. It indicates what COSTPRO is; how long it has been there; what it does; its functions and its ambitions. It is doing a very effective job, particularly in respect f what I would call the nuisance things, the borderpoint problems, the customs and documentary problems. Among other things, they got together twice since November—senior people—our chief statistician, Dr. Ostry, with the number two man from the Census Bureau in the United States and the deputy commissioner of Customs, some of our top Revenue people, plus private sector interests in both countries. They have set up task forces and have now defined problems identified by Americans having to do with Canadian access, and those identified by Canadians about American access. I have copies and I could leave them with you. There are a lot of very important changes being developed in terms of costs and delays to exporters and importers in this North American trade.

Senator Grosart: I will look at the GATT list.

Mr. McAvity: This is not the GATT list.

Senator Grosart: It would cover the same thing.

Mr. McAvity: It would cover many of the things, but no all. They are not getting into government practices like Liquor Control Board taxes, and so on.

Senator Grosart: They are in the GATT list.

Mr.McAvity: I am saying COSTPRO is not getting involved in those, sir. COSTPRO has to do with transportation.

Senator Grosart: Just the border.

Mr. McAvity: It has to do with documentation.

Senator Grosart: It is one small area, the border.

Mr. McAvity: Yes. It is a very important one. In our Washington round table it was generally felt that there was a will on the part of the American officials to have this Canada-U.S. relationship keep going forward. There was no doubt, and it was made quite clear to us by one of their senior people, that there had been a very radical improvement since the low point of 1971. It has been going up steadily. We found they were keenly interested. In fact, they quoted from your report—while the relationship may no longer be "special", it is certainly unique. It is important and it is going to continue to be more and more so. The

Americans were keen. The thing that impressed me the most is their awareness of the importance of their people recognizing the need for them to be sensitive about our growing nationalism. In other words, not to seen to be demanding that Ottawa do things. One senior official, and I commended him for this, said, "I wish you would reverse it. I wish you would tell Ottawa to stop demanding so many things from us. It is becoming embarrassing to our Congress." But there is a very definite will to remove the irritants between the two countries.

Senator Grosart: On the other hand, they are increasing, and certainly since the U.S. Trade Act of 1974.

Mr. McAvity: The powers are there.

Senator Grosart: The powers that have been assumed under the Trade Act and some other acts by the President and the Executive of the United States, have they increased since 1974 any greater on their side than ours?

Mr. McAvity: Very much so. The new powers which I spelled out, as you will have a chance to see in my testimony, sections 201, 301, et cetera, are new and they are really quite frightening. They do make very uncertain the developing of business there. It could have the roots knocked out from under it at the whim of an unpredictable Congress or an ugly competitor. Really, almost at the drop of a hat business could be disrupted. It is worse now. This Law was drafted, as I said, against the background of a pretty bad economic situation. So far, and we are all touching wood, the indication is clearly that the Americans under the Ford administration are bent on trade liberalization. They do not intend to use these powers. But the danger is there. The Congress could do it.

Senator Grosart: Well, of course, the danger is there. Parliament could do it. Are you saying that the powers that have been assumed and used on the American side are less than the powers that have been assumed and used on the Canadian side in this period?

Mr. McAvity: Very definitely. We do not have most of the powers we are talking about, the power to retaliate against the things that they have the power to retaliate against. We have anti-dumping. We have never thought of countervailing action. I do not think it is in our legislation. It might be, but I do not think it is there.

Senator Grosart: On a worldwide basis, we have non-voluntary restraints, and everything else, which we have assumed fairly recently and, in fact, invented them. This presidential action that you have referred to, how can this be taken other than under GATT? Surely any of these powers would run contrary to the American undertakings under GATT.

Mr. McAvity: That is a very good question. The fact is, it is an American law and has been since January 3, 1975. Action is being taken. The Government of Guatemala was found to be using its national shipping line in a way which Americans felt was having an adverse effect on the United States commerce, and they took action. They have now got it under serious investigation. This is one of the many cases that I have mentioned.

Senator Grosart: Are you saying that the Americans, to a greater extent than Canadians, are contravening their obligations under GATT in respect of Canadian trade?

Mr. McAvity: That is not my understanding. If it is so, I would be surprised. The U.S. Trade Act is the negotiating authority. It has been tabled. The GATT partners are trying to come to the same sort of rules worldwide with a definition of what is a subsidy and what should be done about it. I do not think it is fair to say, and I have never heard it stated by any of our people in the GATT negotiations, that what the Americans now have the power to do and are now doing is contrary to GATT.

Senator Grosart: It has been suggested that it is about time they started. I am sure you have heard that. Our people have been pretty soft in GATT negotiations.

Mr. McAvity: The results of the GATT negotiations are not likely to be felt for at least 10 years. In fact it is certain. They are aiming now for the end of 1977 or 1978. Then there has to be national legislation passed in almost all of the countries with a parliamentary system. Then there is a phasing-in period for these changes to take effect. It is likely to be a good 10 years before they take effect.

Senator Grosart: What is the extent of this close-to-market move by Canadian firms to set up subsidiaries in the United States? What are the dimensions in the last few years? Is this a trend that is going to accelerate in the years ahead? How is it related to the fact that the unit wage costs in Canada in the last 10 years have increased by twice as much as American unit costs? Is this a trend that we will have to live with?

Mr. McAvity: The increase in American facilities for manufactured, assembled or processed goods by Canadian-owned companies is not measurable because there is no record of it that I have been able to find anywhere in government circles. We know of a number of such companies. To those we have talked with, unit costs have certainly been one important factor; but only one. I am afraid that there is no way that your question can be answered specifically. I have the feeling that the government of this country is terribly worried about it. They have an inter-departmental group working on productivity. We have had discussions and we hope to go back to them, as I said, early this fall. We have talked with a few leaders of the organized labour movement, including some union leaders. At the top level in the labour movement, I think there is a consciousness of the very serious dangers here. One of their problems is to sell the rank and file on its importance to them.

Senator Grosart: Perhaps the rank and file problem is to sell the leaders.

Mr. McAvity: Perhaps. It is only my opinion, but this trend is likely to go on for some time. Dominion Road Machiney announced in the press that they are building a big plant in Kansas. They have never been outside Goderich, Ontario, before.

Senator Grosart: I was wondering if, in your position as President of the Canadian Export Association, you find more and more Canadian companies coming to you and saying this is the way we will have to go.

Mr. McAvity: I have had at least half a dozen in the last year or so.

Senator Grosart: It is alarming.

Mr. McAvity: It is shocking. Perhaps the most worrisome factor is that I see the end of something we have been trying to build up. We have a good momentum going

and all of a sudden something seems to be happening here, at home, that is of our own doing. It has nothing to do with GATT, ocean freight rates, or anything else that is causing us to be uncompetitive.

Senator Grosart: It has been said we are starting to do what the Americans did for so many years. As they got in behind our tariff wall and Commonwealth preferences, we are starting to get behind their tariff wall. Is that the trend, as you see it?

Mr. McAvity: Except that I would not use the phrase "tariff wall" any more.

Senator Grosart: Let me say the "protection" wall.

Mr. McAvity: The logistics and access to supplies, can be important. For example, there is one Canadian manufacturer within 20 miles of the United States border in southern Ontario who told me that in five years his Canadian content has dropped from 80 per cent to just over 50 per cent.

Senator Grosart: He might go over the border and buy tariff rail protection freight.

Mr. McAvity: He can buy American goods, bring them in, get a duty drawback from Canada Revenue, and get a duty-free entry for the American component going back into the United States as long as he doesn't change it too much.

Senator Grosart: In this trend in all sectors, or just secondary manufacturers?

Mr. McAvity: The important ones like telecommunications, electronics, petrochemicals, have special problems. They have to be competitive. If we are going to develop such industries in this country, ways have to be found to provide (a) stability over the years; and (b) an assurance that they are going to have a good rate of return on investment. If not, those companies are going to put it somewhere else.

Senator Barrow: How do you protect the electronics industry?

Mr. McAvity: They do not want any protection or pampering. They want stability of the climate here. Northern Electric's brief was made public. I read to you some of the things that affect them. They also have the concern that they have to do business with some local government agencies and utilities. Generally speaking, there is no protection being asked by that industry. What they want is to make this country a profitable base from which to export more.

Senator Cameron: What percentage of our trading is with iron curtain countries? My second point is this: Is trade expanding or contracting?

Mr. McAvity: I am afraid, senator, I do not have the figures in memory. I shall be very pleased to get them for you. You may already have them from one of the departmental people.

It is not a significant proportion of our trade, nor is it likely to become so in the near future. There are good reasons for this. Perhaps among the more important reasons is the fact that their economies, particularly the northern ones like the U.S.S.R., are so similar to ours. We are selling them some things which they need; but beyond the things they need, believe me, it is difficult to find a sale. I have been involved in the mixed commission on science and technology set up six years ago, and we make periodical trips to the Soviet Union and meet with senior people there, and they come to Ottawa. Our last meeting took place in Ottawa in May of last year. We are always talking about new projects, and there are some still cooking that may well develop. But we are faced with a disadvantage, and one good example of this is the development of oil resources in Siberia. This goes back five or six years now. It was a huge project, and I doubt if Canadians could haave put together the amount of money and expertise needed anyway. It was obvious from the start that the winners in that race were going to be the Japanese because they were prepared to take as a very major portion of the payment the products of those refineries, liquified gas and oil. So, as I say, we have some business with them, but it is not going to be great.

There are new contracts being signed with Yugoslavia, Hungary and Rumania, and it is very good business. It is good solid business because you get paid. But I do not think we are going to establish anything there that could be called a significant portion of our trade in the foreseeable future.

Senator Carter: What about the Pacific Rim? We had a study of the possibilities with the Pacific Rim countries a short while ago. Has the trade there increased?

Mr. McAvity: Again, I do not have the figures, senator, but I know there has been growth there in recent years. Certainly one of the potentially growing markets right now is Indonesia. The ministerial mission has just come back, and I have read one or two reports on that from private sector people who were on the mission, and particularly in the area of capital projects there are some good prospects for Canadians to get going. There are oil industry people from Calgary, several capital equipment firms and consulting engineers involved. The Pacific Rim is a very big area too, and some of the economies are very tightly run. There are state trading organizations there that are making more and more noise about taking over control. Some are on the verge of it. There will be difficulties and a great deal of competition because the Germans, the Russians and others are involved. In fact, the Japanese consider it as their own backyard, so there will be a lot of competition, but I think there are good prospects.

The Chairman: I might interject here, in connection with the questions of Senator Cameron and Senator Carter, that it is important for the committee always to keep in the forefront of its mind, in considering this Canada-U.S. trade, that we are looking at it in the context of 90 per cent of our total trade being with Europe, the United States and Japan. If you then subtract wheat and other things of that nature you are left with a minuscule amount.

Senator Grosart: They are the three blocks we are not in.

Mr. McAvity: This is perhaps one of the more frightening aspects of our trade picture.

The Chairman: Senator Cameron, did you have a second question?

Senator Cameron: It was whether we were expanding or contracting.

Senator Macnaughton: That figure which you gave us, Mr. Chairman, was it 90 per cent?

The Chairman: That is off the top of my head. I think I am pretty close when I say 90 per cent. It is 70 per cent, 12 per cent and 8 per cent, which comes to 90 per cent fairly quickly. I think it is about 12 per cent of our total trade with Europe. I may not be far off, or something like 8 per cent.

Mr. McAvity: In that measure. I am not sure if it was not all Central and South America which accounts for 4 per cent of total trade.

The Chairman: These are figures I simply repeat, not because other senators are not members of the committee and do not know them; it is just that I think it is well to remind ourselves all the time of the magnitude we are speaking of.

Senator Carter: Coming back to the fact that 70 per cent of our trade is with the United States, there is very little probability of any significant reduction in that percentage. Is it fair to say that Canada is now an economic satellite of the U.S.A. and there is very little we can do about it?

Mr. McAvity: Senator, I am not sure how one defines "economic satellite."

Senator Carter: I used the word "satellite" and I did not use the word "dependency."

Mr. McAvity: Let's face it, our two countries have a relationship which, as your report says, is quite unique. Among the reasons that make it so is the fact we have a very closely integrated society—corporations, labour unions, the press, all the media and everything else. You do not get the same mix between any two contiguous countries in any other part of the world. I am very happy about it personally. My family has been in this country since 1820-odd and I am very happy to have grown up in the period I have because I think we have had the golden years, which have been, in a large measure, the result of a happy relationship across across this border. I used to go down and play in tennis tournaments and fish trout in the State of Maine, just as they came over to us. We always had this relationship. I know my cousin on the west coast experiences the very same thing with the Seattle and Victoria golf clubs. I think it is a good relationship. I am not going to say anything at all about the word "satellite" because I do not know what the implication is.

I do not think the situation is going to change much either way. I think it will probably continue, despite the best efforts of both private and public sectors to expand exports abroad. I made a study recently of Canada's export trade, going back to 1900. Since about 1928 we have been selling, plus or minus, two-thirds of our trade in the United States because the demand is there.

Senator Carter: It does mean, does it not, that we do not really have economic freedom in our country? Our economic freedom depends upon the good will of our neighbours to the south.

Mr. McAvity: To a greater extent than the American freedom is dependent on decisions of, say, the Massey-Ferguson and Seagrams corporations and others, whose head offices are in Canada, yes, because there are more of them in the United States. The phrase "economic freedom", again, is something I am not going to quarrel with you about. However, I do not know really that that will change much. I personally am happy about it and I know that many friends of mine who work for foreign corporations, one American, one Swedish in the ballbearing business and others for British companies, are quite happy because they are good employers.

Senator Carter: I am not unhappy about it myself and I like the United States. At the same time, it is ammunition for those with nationalist ideas and tendencies.

Mr. McAvity: This is indeed a danger.

Senator Carter: That is the aspect that disturbs me, that this sort of thing cannot be exploited in the interests of nationalism.

Mr. McAvity: There is no question in my mind personally, and this has been stated publicly by others, that our government in recent years seems to have been moving in advance of, rather than responding to, public opinion in that regard.

The Chairman: Senator Carter, when you speak of economic freedom in the United States, it is probably as great in Canada as the economic freedom of your province or my province is in relation to Ontario!

Senator Carter: Yes, there is a lot of truth in that, Mr. Chairman. Both the United States and Canada—I suppose also in the rest of the world, but confining our thoughts to these two countries—both countries are moving toward a new era of what is commonly known as the conserver society. Conditions have forced that on us and it will mean changes in lifestyles and other areas. Do you see that having an impact on the pattern of our export trade?

Mr. McAvity: "Conservative" society, senator?

Senator Carter: Yes, both in Canada and in the United States. Do you see that having any impact on our pattern of trade and, in particular, our exports to the United States? I am referring to a conserver society.

Mr. McAvity: Conserving energy and our resources?

Senator Carter: Yes.

Mr. McAvity: Yes, indeed, sir. Now I get it. There is no question that there will be an impact on exports, particularly for a country such as Canada which has been so heavily dependent on the successful development and export of resources for the development, not just of our economy but also of our infrastructure. I am thinking of Thompson Lake and Sudbury back in 1904, if it had not been for the development of mines and so on. The extent to which public pressure is brought to bear, (a) for environmental controls which will be too costly, or more costly than those which might be introduced in some other country for the same resources; or (b), that people say we must save these resources for another generation—these decisions, obviously, if governments resort to them, would have an impact on the export trade. They have to.

Senator Carter: What changes in our pattern of exports do you think may result?

Mr. McAvity: When I mentioned in my opening comments the decisions that are resting now with federal and provincial governments, I was not thinking so much of conservation and environmental matters but about tax structure, labour legislation and so on. However, it is in their hands, really, the determination of whether or not we are going to have the huge volume of trade that we now have and have always enjoyed in what I refer to as the raw resources and the semi-processed materials, the metal

ingots and so on. If we do not have growth in that trade at the same time as we are facing a deteriorating trade in petroleum, as I see it, we are faced with some very serious consequences—political, social and economic. So we must continue to encourage investment and the development of resources in this country for export, because the market here simply is not big enough to justify the capital investment.

Senator Carter: You do not see a very big scope for an increase in refining our ores and processing our goods. Do you think we still will have to export the bulk of it in raw condition?

Mr. McAvity: I have no knowledge of this at all, senator. I am not an expert in oil, but the extent to which we can do this competitively as time goes on is a question of cost factors in such developments as the tar sands and the Arctic. I am very sorry, but I just do not know.

Senator Carter: We were speaking earlier about diversifying our trade and expanding it to countries other than the United States, working out some sort of arrangement with the Economic Community, and looking upon Japan as another good prospect. However, these countries are more interested in our raw materials, energy and nuclear plants than in processed goods.

Mr. McAvity: Yes, I would say industrial materials and food, perhaps more so than petroleum and nuclear plants. We have a few nuclear plant orders in shape, but I am not looking, for example, personally for that much prospect in trade in oil and gas with Europe in view of the North Sea development and the availability of the Russian and Romanian fields. However, I think that in the industrial materials side, non-ferrous metals, forest products and so on, yes, this is where I am thinking of the need for maintaining a good investment climate.

Senator Carter: In our efforts to expand into other countries, should we concentrate more on certain products than on others? We have the United States society and rate structure, the industrial structure, so close to our own that our high-price goods have more ready access to markets in the United States than perhaps to any other part of the world. Can you separate out certain products or lines of products that we should think of as being for the U.S. market and then concentrate on other products for other countries?

Mr. McAvity: Perhaps the best answer to that, Senator Carter, would be to say that there are some products of which we are the logical suppliers, such as the downstream products of the forest industry, like lumber, plywood, prefabricated houses and boxes. We have to be competitive if we are going to increase our share of that market. We could go on into petrochemicals and down into the plastics, and so on. These are things based on our own resources which we should be developing.

I think, frankly, our Department of Industry, Trade and Commerce is doing a good job of trying to identify the sectors where we have potentials for growth in world markets. Programs are being formulated today to cater to those needs. That is part of the further processing programs which are going on, the policy which has been adopted.

It would be ridiculous for us to start to develop, for example, industries in which we would have no logical or comparative advantage. Suppose we took some tropical thing like jute and tried to develop a secondary manufacturing industry on that. Well, our source of supply is vulnerable. We should be attempting to further process our own resources, which are potentially big and have capability of going to export. That is what the government is doing.

Senator Carter: What is the situation now with respect to high-technology products? My understanding is that the export of high-technology products has been going down.

Mr. McAvity: I do not have a record, senator. I am sorry I cannot give you the figure on that. It is probably available in the statistics. I mentioned earlier that there are some companies with great export business already built up, and even greater potential, that are now setting up shop in other countries. Northern Telecom, to me, is one of the most exciting growth companies. They have now developed very extensive manufacturing facilities in the States—for good reasons.

With respect to petrochemicals, you have read in the press, as I have, of the arguments about who is going to get what. Ontario wants this and Alberta wants that. There is a huge processing industry to be built up there. Again, it is going to be heavily dependent upon export sales.

Senator Carter: Towards the end of your presentation you were mentioning reasons why firms are moving out of Canada into the United States. One of the reasons you gave, which I did not quite get, was something about competition for management personnel.

Mr. McAvity: Competition for management personnel, yes.

Senator Carter: Would you elaborate on that?

Mr. McAvity: I cannot really. It was a statement in the Northern Telecom brief to the Bryce Commission. I do know of cases, however, where companies have a shortage of skills which they need. International business skills are needed in many companies in our membership that are simply not available in Canada. I do not think that the fault lies with the universities, although that traditionally has been a problem. They are internationalizing their schools of commerce and their business curricula. They have been doing so over some years. Since 1964 we have worked with many universities, encouraging them and helping them to do so. But there is still a long way to go. Many companies today, if they could find the right man, would take him. Salary is no problem. It is getting the right man. Quite often they have to go abroad.

The Chairman: In that respect, I have spoken to executives, Senator Carter, who have moved to the United States and who have told me afterwards that on the same dollar income they are 30 per cent better off. For example, they have lower taxes and they are able to deduct mortgage interest.

Mr. McAvity: I am not sure what Bill C-20 contains, Mr. Chairman, but there is a problem now that if a Canadian company brings in a top level executive from abroad to do a particular job for a period of, say, five to ten years, there is always the problem of capital gains and the other tax provisions when the foreign executive moves back home again. So it is not easy to attract people to Canada today because of such factors.

Senator Carter: Mr. McAvity, you were talking about the role of labour and the meetings that you had with

labour leaders; also the importance of getting a better understanding among labour unions as to the dependance of the economy on the productivity of labour, of labour attitudes, labour unrest, and that sort of thing. I thought you said that labour leaders said they understood the problem and that the problem was with the rank and file.

Mr. McAvity: This is my observation, Senator Carter. We have had a number of meetings. Some of our people met with a few of the senior officers of the Canadian Labour Congress and three individual heads of important unions—this was back in November and December—pertaining to the proposed export levy.

Perhaps the more significant meeting was the one we had during the summer of last year, when we had a group of 10 or 11, officers of the Congress plus labour union leaders that had gathered for their own reasons in Ottawa. We brought together a group of some three dozen senior executives from companies in a variety of resource industries and a number of different manufacturing industries. We selected them with some regard for the nature of the unions. We had metal working plants, and the steel workers fellow was there. We had a very meaningful discussion of a report which we gave to them in advance on a survey that had been conducted by our association last spring, in 1975, on the outlook for exports. Here we identified the principal factors affecting the outlook for exports in the next 12-month period. Demand was clearly the number one factor. There was a pickup in demand. There were more orders. Some said they were moving into new markets. They were paying tribute to the government's export promotion program.

Those who were pessimistic—and, believe me, it was a smaller percentage of the two—gave reasons why. Here mainly it was high cost of production. "We have to bid on a fixed price basis," say some large manufacturers of capital equipment, "to meet our competitors. Two to three-years time required for he bid period and production period. How can we possibly give a fixed price lump sum bid today? Can you guys in the unions help us?" The discussions went on very freely. They appreciated the problem, and I think that some subsequent meetings were held at the local level. It was my feeling that the labour leaders—and generally I find these people are quite responsible, and many of them are very conscious of the economic facts of life—go along with this. They can see the problems. They did not have to point to the problems of other countries such as the U.K. As I said, they are political people, and right now they are facing another election. That is the problem.

Senator Carter: The pronouncement we hear from labour leaders, which from time to time is recorded in the press, indicates that they do not seem to understand the impact of labour on our economy. I am wondering if you think there is a deficiency in our educational system, in our schools, and whether your organization has done anything about it.

Mr. McAvity: To answer your question, senator, yes, I agree that there are deficiencies in our educational system and the whole field of economic education. We have had a number of meetings in the past. We have instigated in some places speakers and plant visiting programs. We have had business people help to sell local schools and colleges in Ontario, such as Centennial and Scarborough. We have produced a film that is still showing—we had about 20 high school students at Victoria Park School, in the northeast part of Toronto, undertake a project on "Who needs exports"? The students visited certain people, including the head of the Labour Congress. They asked a lot of questions, and they finally came back and said "I guess it's us, our generation, that needs exports." This film is being shown in schools across the country. It is a tough thing to do, to try to mould public opinion by such means. The Chamber of Commerce and a number of others have tried to do this in the past.

Right now there is a new body. We contributed to it. I took part in the founding meetings. It was started in Toronto some five or six years ago. It has a long range economic education program. This time they are starting, as we should have done, at the schoolteacher level. We have to get the support and the cooperation of teachers. This is going on now. We are playing only a very small part in that. We do not have the resources, the people or the money, but others—the Canadian banks, the manufacturers, the life underwriters associations and several more—have got this thing going. There is a full-time man doing an excellent job. I contribute to the scheme, and I spend as much time as I can with them.

Senator McElman: You say, "The school teacher level." Do you concentrate at all on the teachers' colleges in the country, rather than after they have got out of teachers' college?

Mr. McAvity: I would say the answer to that, truthfully, must be no. We have tried to. We have made overtures. I have talked to university people, such as the late John Deutsch, and the late Cyril James. I have talked to some school authorities, such as the school board people in North York, as well as to high school principals, and I asked them how we could do this. I frankly backed away from it, however, because we simply did not have the time or the resources available to us to get at it. It is a big job. That is that this new group, the economic policy education body, or whatever they call it, is trying to do. I think they are going about it through the teachers' colleges as well as school boards and others.

Senator McElman: May I comment on that, Mr. Chairman? I think you are too late, because if you do not get them first, immediately they get out and into their teachers' organizations, the NDP get them, and they preach a different philosophy from the one you wish to put forward.

Mr. McAvity: It is a sad commentary, but I can tell you what happened when I was on my way to that Victoria Park school. I was up there a number of times in connection with the production of this film that we had Crawley Films do. I was driving from the airport in a car, and was turning off the 401 down one of those main streets which happen to lead towards the high school. There was a boy running to catch a bus, and I could see that he was going to miss it. He could have been going to the school I was going to so I stopped and said, "Do you want a lift?" He hopped in. He was about the age group I was talking to, but did not happen to be in the class I was dealing with. I asked him if he was studying economics. He said he was, and that he was in Grade XII. I asked him what text he was looking at, and he proudly showed me the paperback version of the Gray report. I checked subsequently with the school board. It was not made public, it was not circulated by the Department of Education, and then Minister of Education, Bill Davis, did not even know it was being distributed by some of the teachers. I am not saying this was wrong, but I am saying that this is a fact of life we have to cope with.

Senator Macnaughton: The witness, who has been excellent this afternoon, as usual, mentioned in his remarks restraints to growth, and he covered several subtopics under that heading. I have found little topics that he might care to comment on. They are his headings, I think. They are transportation costs, government competition, taxes, and wages or wage rates.

Mr. McAvity: Government regulations are what was meant there, Senator Macnaughton, or government intervention.

Senator Macnaughton: I thought you meant competition, with high wages taking people out of the individual markets.

Mr. McAvity: That is important, too, but I was giving you the headings that appeared in Northern Telecom's brief to the Bryce commission. You might also say that government competition in the capital markets is important, too.

Senator Macnaughton: That is what I thought you meant.

Mr. McAvity: It was government regulation that was mentioned.

Senator Macnaughton: Would you comment, then, on taxes and wage rates? I did not quite understand you on transportation costs either, unless you were referring to the size of the country.

Mr. McAvity: I am afraid I would not like to get into a discussion on taxes without being prepared for it because, as you well know, it is a complex subject. If one were to try to clarify the significance of tax measures to a manufacturer, looking at a new X million dollar factory, on one side of the border or the other, one would have to point out that there are a great many local and state taxes—DISC, and other things, and the stability of our so-called Turner measures. Are those going to be around forever? These are all important factors. I do not think I am competent to get into much of a discussion on that.

On transportation costs, though, specifically, I can speak, because I have had a number of people commenting on these. I mentioned earlier the inland and ocean freight component now and the laid-down price becoming an extremely important factor. To some, it is more important than the foreign tariff. I do not know what we ae going to do about that aspect of it. If, for example, to raise a current issue, the Seaway tolls should become prohibitive, I shudder to think what would happen to surface transportation rates. For example, what would happen to truck and rail rates in Europe were it not for the Rhine barge system?

Costs are high now and are continuing to rise because of good accountable factors. The Anti-Inflation Board makes them account for them, some of those factors being rising wages, the rising cost of materials, the rising cost of energy, and so forth. I do not know how we are going to stop this rising cost spiral.

The inland component is becoming a significant factor in the laid-down price in respect of the goods shipped by those companies that are a long way from either ocean.

Senator Macnaughon: What about wage rates?

Mr. McAvity: The Dominion Road Machinery is one of those companies that has moved on. ATCO Industries has published the fact that it has set up factories in the United States as well as one in Australia. There are a number more I could cite, but I do not know much about them. I do not want to be quoted on any one of them because I am not sure of my facts from memory, but in a number of them—certainly in steel, certainly in the electronics area and, I believe, in some branches of the chemical workers' sphere—union wages overall, with fringe benefits added in, are higher now, or are about to be higher as a result of negotiated contracts, than they are in the United States. There is one plant presently under construction in the State of Kansas and the workers in a neighbouring plant, which has the same union, United Steel Workers, are now demanding parity with workers in Goderich, Ontario. The man responsible for that plant said to the friend who passed the story to me, "You fellows up there sure are on a treadmill to oblivion." So in answer to your question, Senator Macnaughton, wages comprise the key issue that Arthur Smith raised when he talked about this basic issue of international competitiveness. It is not just the wage factor, but all of the things associated with it. As long as we permit the cost of food and other commodities to rise, we will never be able to put a ceiling on wages without a riot. Increased wages, in turn, increase the costs of materials. Materials costs in some industries are increasing faster than in others.

The Chairman: Senator Barrow.

Senator Barrow: Thank you, Mr. Chairman. I will get back to what are perhaps more mundane questions.

In connection with customs procedures and valuation methods—and I think you partially answered this—I understand that Canadian exporters have complained from time to time that U.S. customs procedures and regulations have been tightened and that complex, detailed documentation has been required for goods entering the United States.

Is that a new trend?

Mr. McAvity: It has been that way for a long time, Senator Barrow. I have forgotten how far back the United States customs system dates, but it is probably older than ours, and it has always been a complex one. If anything, it is improving. We have met the Deputy Commissioner and the senior working level officers. We can sit down in their offices and chat with them about problems, and we have always found them very willing to cooperate. There are many areas now where border point officials in the United States customs service are given the power to waive production of certain documents. This has been so in recent years, and is increasing. United States value laws are very complex, and I hesitate to get into a discussion of them. They are complicated. There is an old value law and a new one, and it is difficult to differentiate between the two when you read the book that is given to you.

It is a complex business. This is one of the reasons we run workshops. Last year, the Ontario government indicated that perhaps the best attended seminar program it had all year was the one we put on in seven or eight cities in Ontario. There was an excellent turnout at these meetings and the program was only aimed at the little people. There is a great need for this.

In any event, the point I want to make is that the U.S. system is improving as opposed to going backwards.

Senator Barrow: The organization to which you referred earlier, costpro, does it deal with the authorities on that?

Mr. McAvity: It does now. It began with our Canadian Export Association. It began, really, in two areas: first, we were looking at such things as duty drawback arrangements on both sides of the border, and to try to improve the situation for rationalization programs that would be economically efficient; secondly, we began looking at documentation, and this is an horrendous cost to the economy when you consider the total cost of producing all the pieces of paper required to make one shipment. I recall that, in the days when I was in the distillery business, we would have trucks and carloads of Seagram products ready to ship to that huge market in the States from September on for the build-up for the big pre-Christmas rush, in which we did one-third of our annual business in two months. Repeatedly, we would find railway cars and trucks filled with goods waiting to go, but we could not keep up with the paper work. Since then electronic data processing has come in, and in many larger corporations this is becoming the thing.

Among the things that costpro is now doing—it is now a very worth while body of government and private sector organizations, based in Montreal—is not only the removal of such problems as delays, border point problems and things of that sort, but customs forms. They are trying to eliminate customs forms where they are unnecessary and have commercial invoices take their place. They are also now getting into computer banks and retrieval systems; they are looking at all that is best in Europe and trying to emulate it here. I think, given the huge two-way flow of business, they will be making some worthwhile progress in the very near future. I am talking of months rather than years.

Senator Barrow: Is this an area in which this committee could or should become involved in order to help solve any problem?

Mr. McAvity: The costpro annual meeting is taking place this week, on Thursday, followed by a seminar on Friday. I saw a draft of the chairman's report. I am not on the executive committee but one of our people is and reports to us. That annual report could be of interest, and I would be very pleased to send it to you. I have left here some papers about what Costpro is and does. It is a question of how much time you wish to devote to the technical matters. This really has to do with Canada-United States relations in a very real, practical way. It is still in the early stages, but it might well be of interest to you.

The Chairman: Senator Barrow, were you here some weeks ago when we had some very good expert testimony on border procedures between Canada and the United States?

Senator Barrow: No.

The Chairman: There is a fair amount of evidence, I would think an hour, from one of our witnesses on that specific subject. He went into a good deal of technical detail about the actual forms that had to be filled in and some of the procedures that go on in order to export products into the United States. I think he concurred in what I understood Mr. McAvity to say a minute ago, that the American system at the border stations is one of the most complex in the world, without any question.

Mr. McAvity: It is, very much so.

The Chairman: There is a good deal of testimony on that.

Senator Barrow: Then the matter has been dealt with. With respect to other tariff barriers, some of the matters which affect Canada-United States trade include various health, safety and protection standards, government procurement policies, quantitative restrictions and the American selling price. Do you associate any specific complaints against these barriers as they affect Canadian exports?

Mr. McAvity: You have named quite a number of different things, and they are really not related. I have a paper here, which I will leave for your staff economists, entitled, "Some things the Canadian exporter should know about the impact of the consumerism movement on U.S. imports." It reveals the Food and Drug Administration and Federal Trade Commission rules and, more frightening, the new Consumer Products Safety Commission, which is given very broad powers; they can send people out to a Canadian or any foreign factory to examine the way they are making different things, at their discretion. These powers are there. They are not being exercised but they are there. We could leave this with you. What was your second point?

Senator Barrow: There were health, safety or protection standards, government procurement policies, quantitative restrictions.

Mr. McAvity: There is not much we can do about government procurement policies except to put pressure on our own government, which we have done through our ambassador. In previous years our ambassador has been, I would say, very good about responding. I know of one case where the ambassador did apply some pressure on the government of a state, which I think did delay at least some measures having to do with the Buy American Act provisions in that state.

Senator Barrow: I think you did mention that the United States International Trade Commission recommended import quotas for specialty steel, but in March their implementation was postponed for three months. Did you not mention that?

Mr. McAvity: Yes. We have had nothing to do with it, because there is no way the private sector voice can be heard. When the International Trade Commission is handed a job to do to investigate injury, they must by law examine it. If they find that injury has been done or is threatening an American industry, they then make a recommendation. In the case of specialty steels, they recommended to the President that there be some special arrangements made for a five-year period. Canada was not the target, and this was recognized. The President cut that back to three years of his own volition, following a meeting with the Economic Policy Board, I am told, which brings together all the departments, and some special orderly marketing arrangements are being discussed about the Canadian steel being shipped there. But we do not get into such matters; there is no way that we can. We do submit, and have submitted, briefs pretty regularly when some public notice is given that hearings are being called. We would then normally check with American as well as Canadian authorities. On the American selling price, we did not; we included it in a brief having to do with American method of valuation for customs purposes and suggested that it should be brought up to date.

Senator Barrow: In connection with exchange rates, and I believe you mentioned this before in connection with a previous question, could you comment on the effect of the

present rate of exchange, which is around $1.02, and its effect on Canadian exporters?

Mr. McAvity: You mean whether we like it or not, and what we should do about it? I can think of some companies to whom 1 percentage point in the comparison means about $1 million per annum, and that will give you an idea of how much it means to some exporters who have to sell in U.S. dollars. I have no crystal ball, but I have talked to a number of experts in government on both sides of the line, and the foreign exchange experts in private banks, and I have the feeling that the consensus points to some decline, that is to say that the Canadian dollar should drop a bit in relation to the United States dollar before the year ends, but more because of a rise in interest rates in the United States than for any other factor. The American economists with whom we spoke in Washington, and the authorities in various departments, indicated amongst other things that short-term interest rates would go up before the year end by between 1 and 1½ percentage points. This could narrow the gap which today is one of the factors in bringing short-term money into Canada and keeping our dollar higher than many exporters would like to see it.

Senator Barrow: Would you advocate a deliberate depreciation of the Canadian dollar?

Mr. McAvity: Oh, no. I don't think any country in the world today is in a position to do it, to begin with. We have reserves, but how long would they last if we tried to establish an artificial level? Secondly, under the spirit of the Rambouillet Agreement in France, to which we were not a party but the world is generally trying to adhere to the spirit there, it has been agreed that nations will not resort to such things as deliberate currency exchange devaluation only for the sake of drawing trade in their favour.

The Chairman: Senator Barrow, could I just interject here? You are a much better economist than I am, but even if we determined that we would like to shove it down, how would we do so when we have a five or six million dollar imbalance of trade and we insist on covering that imbalance by importing capital as opposed to tightening our belts?

Senator Barrow: I really don't know. I just wondered whether the Canadian Export Association would advocate this.

Mr. McAvity: I think if we were to take a poll of our members as to where they would like to see the Canadian dollar level out, it would be somewhat below par with the United States dollar, given the difference we are faced with here in our productivity, performance and competitiveness.

Senator Barrow: Well, Mr. Chairman, those are about all the questions I have. I certainly appreciate the lucid way in which the witness has dealt with these questions.

The Chairman: Mr. McAvity, we have kept you a long time and it is getting late. I don't want to keep you or the members of the committee too much longer, but if there are no further questions, then I am going to impose upon everybody by taking five minutes for a question which concerns me very deeply. It is, generally speaking, a further development of what Senator Grosart was pursuing quite vigorously earlier, and that is the question of the third option.

At the time you were giving your opening statement you made reference to the fact that your association was supporting the government policy in—and I wrote this down at the time—"diversifying our trade away from the United States." I wrote down your use of those words "diversifying" and "away from."

Senator Grosart has already pursued this to some extent but I would like to go into it further because I have been very concerned about the emphasis on the third option by the government, by our trade people, by our embassy people, by External Affairs and others. It has now reached the point where it no longer means what you later described it to mean, namely, simply taking the maximum advantage of other markets that might open up—I think that is what you meant to say—but now, indeed, does mean what you possibly with a Freudian slip said it meant, namely, diversifying trade away from the United States. Do you detect that, indeed, the rhetoric surrounding the third option is becoming counter productive?

Mr. McAvity: Yes. I think that is a very well expressed question, Senator van Roggen. I think I can express myself a little more clearly having received your question now than in the earlier discussion.

The phrase "diversify away from the United States" is not exactly what I had tried to imply. I am hoping that in the course of time we can continue to increase our exports to all nations, and, of all our trading partners, the most logical and easy, if you will, market for us to penetrate on an increasing scale will be the United States, (a) because the demand is there for the kinds of products that we have to sell; and, (b), the dollars, the similarities, and the corporate relationships.

Therefore, what I am saying is, as I mentioned the case of the man depending upon one customer for his company, we want to reduce our vulnerability to the whim of an unpredictable Congress, labour movements and depressions in the United States. So, we want to expand our exports everywhere, for the obvious reasons we are all aware of, balance of payments, employment and other things, and in doing so hopefully we will maintain at least the same, and if possible, a larger margin with foreign markets so we will not be so vulnerable.

Now, I come to the second part of your question and I would like to dwell a little on this. One of the impressions I personally received, and a number of delegates who were at our Washington round table also seemed to get it from these discussions, was that officials in Washington recognize the third option; they go along with it on the ground it is our business.

As you so ably put it, in the institutional arrangements which you outlined in Volume 1, we have gone past the day when there is any sort of special consideration for Canada. We are on our own feet and we are going to stand on our own feet.

There are some officials in Washington who, on this trip and on earlier trips, have indicated to me the personal view that they feel we are on the wrong track. Look at it from the point of view of the private sector. They indicate we are coming out in the open in such a way as to make people think that we no longer care too much about the American market. This is what I mentioned earlier, when I referred to the comment made by the Council of Forest Industries.

We deplore the idea that there may be an anti-American sentiment associated with this third option. This is how it

does seem to appear now to some private sector interests in the States. Because the American market is a free enterprise market, we are dealing with private sector interests. When they read in their local newspapers, as they have, about our initiatives abroad, they come to think "Why should we buy from your people?" This is the fear that I meant earlier when I said that many in our association would welcome the recommendations you have made about improving the information program in the United States.

The Chairman: My second question is: If the third option does not mean that people are now inclined to say it does not mean—namely, diversifying trade away from the United States to other areas . . . but simply means pursuing foreign markets as vigorously as possible everywhere, can you tell me the difference between the first option and the third option?

Mr. McAvity: As I recall them, the first option was to have a sort of status quo, was it not, Mr. Chairman?

The Chairman: Yes.

Mr. McAvity: In effect, I think there is very little difference, because I do not believe it is within our power to change and the private sector interests in Canada will continue to pursue their efforts for a greater share of the American market, regardless of government policies. Now, the programs for export market development, for example, of the Department of Industry, Trade and Commerce, the benefits granted there, the cost-sharing arrangements, are not provided to develop more exports to the United States. It is only markets other than the United States to which most of those programs apply, but I think that without that companies will still pursue the business south of the border.

The Chairman: Changing to a different area, you spent a good deal of time in your opening presentation, and again in answer to questions, on the subject of non-tariff barriers in all their forms, as opposed to tariffs. At one point, as I recall it, you made the observation that a further reduction of tariffs in the United States would not be an overriding factor, as there are so many other aspects to consider. You gave several examples, including a South American government-controlled shipping company, which can have a bearing. I quite concur that the ingenuity of man to think up subventions, assistances and so on, goes beyond anything that could ever be contemplated in planning one's trading patterns on a multi-national basis.

My question is: If freer or totally free trade is a proper objective for Canada, to further our manufacturing, is it practically possible to do this on a multi-national basis when as soon as the barriers are knocked down new ones will pop up all the time and there is no way to police them on a multi-national basis, with a hundred countries putting up new ones every day? Therefore, I am reducing it to *reductio ad absurdum*, to the point where you say—and again I stress, if free trade would be of advantage to rationalize our industry, as the Economic Council of Canada says—that you can only really intelligently discuss it on a bilateral basis with, in our case, the other country on this continent, the United States, because only on a bilateral basis under a carefully honed agreement can we properly police the NTBs, as has been the experience in Europe where very complicated mechanisms have been set up to ensure that the seven members of the Economic Community play by the same rules. It is a rather long question!

Mr. McAvity: It is. Number one, I do have the feeling that the government would be very guilty of not serving the interests of our community well if they were not to pursue as hard as they can the objective of developing more manufacturing in this country. Number two, the growth of the goods-producing industry really governs the number of service industries the country can support. I think it was Mr. Ward, of Canadian General Electric, at a recent meeting of the Conference Board, in Toronto, who indicated that the manufacturing industries today, or during the last year, have only something like two million employees, whereas in governments today there are 2.6 million.

In my opinion, we must expand manufacturing, and this will not be an easy task because every other country, right down to those in the bottom tier of the developing world, are trying to do exactly the same thing. Many of them have all kinds of ways, as you indicated, Mr. Chairman, of making it very difficult for exports of manufactured goods to enter their territories. I was in Mexico a year and a half ago and they were just then planning a three-month program of bringing in foreign manufacturers for no other purpose than to expose to them items which were now being imported which they wanted to see manufactured. They were prepared to give all kinds of assurances and tax benefits to encourage people to come in with their technology and produce those manufactures for their country: this is common practice.

In our brief to the Canadian Tariffs and Trade Committee, under the subject of non-tariff barriers, we said that there is a wide difference within our membership as to which are the important non-tariff barriers, such as those for a mining company or an entirely different company producing heavy electrical equipment, for example. Perhaps important is the phrase in that submission recognizing that the whole business of reducing, if not eliminating the prohibitive types, the bar-the-door types of non-tariff barriers such as government procurement policies, et cetera, may be a very difficult exercise to win in the economic circumstances prevailing today. It is hoped that the discussion in Geneva of such non-tariff barriers can be kept alive until conditions throughout the world will permit worthwhile agreements.

Now, there are many NTBs that are less important. We said in our brief that it is hoped that negotiations will result in the easing or the removal of the less than prohibitive NTBs—for example, the customs and consular requirements and documentation problems; shipping, import licensing; maybe standards, health and other rules. They have a proposal before this particular group in the GATT known as "The code of conduct for preventing technical barriers to trade."

I think it is realistic to expect some headway to be made there, but when it comes to the bar-the-door type, which is faced by such as the manufacturers of heavy electrical equipement, I just cannot see how in the U.K. today, for example, so long as there is unemployment in the Midlands, a Canadian manufacturer, no matter how good his products or how good the financing terms are, will ever get business from the British utilities. I cannot see it in the foreseeable future.

The Chairman: If you were to knock those NTBs completely down, could it conceivably be done on a one-on-one basis, because it is a small enough area to be policed, as they police it in Europe? But to police it becomes impossible on a multinational or multilateral basis.

Mr. McAvity: Yes, and then the important factors become costs of production, costs of transportation, tax systems and all of those factors which affect the selling price. Today one of the greatest problems of our capital goods industry in many sectors is the import competition. If you take a look at the business awarded to foreign countries, including some behind the Iron Curtain, by Canadian hydro electric utilities, I think manufacturers in many businesses are having a tougher time competing at home than they are abroad.

The Chairman: Thank you. If there are no other questions, honourable senators, I will thank our witness for coming here today and for giving, as I said earlier, a most carefully thought-out opening statement, and for being so well informed and so frank and forthcoming in all his answers to our questions. Thank you very much.

The committee adjourned.

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1974-76

THE SENATE OF CANADA

PROCEEDINGS OF THE

STANDING SENATE COMMITTEE ON

FOREIGN AFFAIRS

The Honourable GEORGE C. van ROGGEN, *Chairman*

Issue No. 34

THURSDAY, MAY 13, 1976

TUESDAY, MAY 18, 1976

First Proceedings on Bill C-20, intituled:

"An Act respecting citizenship"

(Witnesses—See Minutes of Proceedings)

21507—1

THE STANDING SENATE COMMITTEE ON FOREIGN AFFAIRS

The Honourable George C. van Roggen, *Chairman;*

The Honourable Allister Grosart, *Deputy Chairman.*

and

The Honourable Senators:

Asselin	Lafond
Barrow	Laird
Bélisle	Macnaughton
Cameron	McElman
Carter	McNamara
Connolly (*Ottawa West*)	Rowe
Croll	Sparrow
Hastings	Yuzyk

Ex officio Members: Flynn and Perrault.

(Quorum 5)

Order of Reference

Extract from the Minutes of the Proceedings of the Senate, of Wednesday, 5th May, 1976:

Pursuant to the Order of the Day, the Senate resumed the debate on the motion of the Honourable Senator Connolly, P.C., seconded by the Honourable Senator McIlraith, P.C., for the second reading of the Bill C-20, intituled: "An Act respecting citizenship".

After debate, and—
The question being put on the motion, it was—
Resolved in the affirmative.

The Bill was then read the second time.

The Honourable Senator Connolly, P.C., moved, seconded by the Honourable Senator McIlraith, P.C., that the Bill be referred to the Standing Senate Committee on Foreign Affairs.

The question being put on the motion, it was—
Resolved in the affirmative.

Robert Fortier,
Clerk of the Senate.

Minutes of Proceedings

Thursday, May 13, 1976
(40)

Pursuant to adjournment and notice the Standing Senate Committee on Foreign Affairs met at 9:30 a.m. this day.

Present: The Honourable Senators van Roggen (*Chairman*), Barrow, Cameron, Carter, Connolly (*Ottawa-West*), Laird, Macnaughton, McNamara, Rowe, Sparrow and Yuzyk. (11)

In attendance: Mrs. Carol Seaborn, Special Assistant to the Committee; Mr. R. L. du Plessis, Law Clerk and Parliamentary Counsel and Mrs. Barbara Reed, Constitutional Adviser, Department of Justice.

The Committee proceeded to its consideration of Bill C-20, "An Act respecting citizenship".

Witnesses: From the Department of The Secretary of State:

Mr. R. W. Nichols, Registrar, Citizenship Registration Branch;
and Mr. Lewis Levy, Director of Legal Services.

The Committee proceeded to the Clause by Clause consideration of Bill C-20.

Clauses 1 to 20, inclusive were adopted.

Clause 21 was considered and allowed to stand.

At 12:20 p.m. the Committee adjourned to the call of the Chairman.

Tuesday, May 18, 1976
(41)

Pursuant to adjournment and notice, the Standing Senate Committee on Foreign Affairs met at 9:38 a.m. this day.

Present: The Honourable Senators van Roggen (*Chairman*), Barrow, Carter, Connolly, Croll, Flynn, Lafond, Laird, Macnaughton, Sparrow and Yuzyk. (11)

Present but not of the Committee: Honourable Senators Thompson and McGrand.

The Committee continued its clause by clause consideration of Bill C-20, An Act respecting citizenship.

Witnesses:

From the Department of the Secretary of State:

Mr. R. W. Nichols, Registrar,
Citizenship Registration Branch;
Mr. Lewis Levey, Director of Legal Services.

From the Department of Justice:

Mrs. Barbara Reed,
Constitutional Adviser.

And also: Mr. R. L. du Plessis, Law Clerk and Parliamentary Counsel.

Clauses 22, 24 and 25 inclusive and Paragraphs (a) to (k) inclusive of Clause 26 were adopted.

Clause 23 was allowed to stand.

Paragraph (L) of Clause 26 was considered and allowed to stand.

Clauses 27 to 32 and Sub-clause 1 of Clause 33 were adopted.

At 12:40 p.m. the Committee adjourned until later this day.

AFTERNOON SITTING
(42)

Pursuant to adjournment and notice the Standing Senate Committee on Foreign Affairs resumed at 2:12 p.m. this day.

Present: The Honourable Senators van Roggen (*Chairman*), Carter, Connolly, Lafond, Laird, Macnaughton, Perrault and Yuzyk. (8)

Present but not of the Committee: Honourable Senators Forsey and Thompson.

Witnesses: Same as at morning sitting.

The Committee resumed its detailed study of the Clauses of Bill C-20.

On Clause 33:

Subclause (2) was considered and allowed to stand.

Subclause (3) was adopted.

Subclauses (4) (and 5) were allowed to stand.

Subclauses (6) (and 7) were adopted.

Subclause (8) was considered and adopted, subject to clarification of paragraph (e).

Clauses 34, 35, 36, 37, 38, 40, 41, 42 and 43 were adopted.

Clause 39 was allowed to stand.

Clause 21 and paragraph (L) of Clause 26 were further considered and adopted.

At 4:25 p.m. the Committee adjourned to the call of the Chairman.

ATTEST:

Note: *At a subsequent meeting the following resolution was adopted: Resolved;* That notwithstanding the resolution passed on October 24, 1974 respecting the printing of Proceedings, this Committee print 800 copies in English and 300 copies in French, of its Proceedings in relation to Bill C-20, An Act respecting citizenship.

E. W. Innes,

Clerk of the Committee.

The Standing Senate Committee on Foreign Affairs

Evidence

Ottawa, Thursday, May 13, 1976

The Standing Senate Committee on Foreign Affairs, to which was referred Bill C-20, respecting citizenship, met this day at 9.30 a.m. to give consideration to the bill.

Senator George van Roggen (*Chairman*) in the Chair.

The Chairman: Honourable senators, I see a quorum and I will call the meeting to order. We have postponed our study of Canada-United States trade relations, so as to deal with Bill C-20, an act respecting citizenship, which was referred to this committee by the Senate. The normal course that I would prefer to follow, that of starting with the minister, was impossible because of the minister's absence from the city yesterday and a meeting of Cabinet this morning. He is free to appear before the committee next Tuesday morning, should we wish him to do so at that time. In the meantime, I thought that rather than delay dealing with this matter until the minister could appear, we would press on this morning with the presentation of the bill and the general background relative to the legislation from the minister's departmental officials.

We have with us this morning, on my immediate left, Mr. R. M. Nichols, Registrar, Citizenship Registration; on Mr. Nichols' right, Mr. Lewis Levy, Director of Legal Services in the department; and, from the Department of Justice, Mrs. Barbara Reed, Constitutional Adviser. I might also mention that our Law Clerk and Parliamentary Counsel, who has just entered, will have to be excused if he comes and goes, as he also has duties at the meeting of the Standing Senate Committee on Banking, Trade and Commerce this morning relative to Bill C-58.

If it is agreeable, honourable senators, we will proceed and I will ask Mr. Nichols to make an opening statement relative to this legislation.

Mr. R. M. Nichols, Registrar, Citizenship Registration, Department of Secretary of State: Thank you, Mr. Chairman. The phrase "Citizenship and Immigration" appears to roll easily off the tongue. But "Citizenship" is quite separate from "Immigration", there being really no connection between the two except on a consultative basis. So we are Citizenship only.

I do not wish to speak long, because Senator John Connolly made an excellent summary of the principles of the bill in the Senate, which I am sure most of you heard. I know there will be detailed examination on clauses of the bill, so I will only spend a few minutes talking about the kind of principles that the minister and the government want to establish with this new Citizenship Act, which replaces that which is now nearly 30 years old and is in many ways badly out of date and out of joint.

The first great aim of Bill C-20 was to enact legislation that was equitable, that treated every one who came before the citizenship courts equally and in precisely the same manner. The present act plays favourites; it treats men differently from women; it treats British subjects differently from other aliens; it treats adopted children in a manner different from natural-born children. It has a number of inconsistencies of that nature and the first aim was to treat everyone precisely the same. The Royal Commission on the Status of Women made five specific recommendations to do with citizenship. I am pleased to be able to say that the bill takes them all into account. Some of you may have read the minutes of the House of Commons committee, where Katie Cooke was a witness, and where she supported the bill and said that we had done all that they wanted. Briefly, the five parts they wanted dealt with had to do with children born abroad to Canadian citizens. Under the present act such a child can derive citizenship only from the father, or from the mother if it is born out of wedlock. This bill makes possible derivation from either parent without qualification.

The second recommendation is that they wanted equal residency treatment. Under the present act the alien wife of a Canadian resident may become a citizen in one year. The reverse is not true; the alien husband of a Canadian wife must wait five years, like anyone else. They were insistent, and rightly so in my opinion, that the residence requirement be equal and it now is. Everyone must fulfill the three-year residence required under Bill C-20.

The third point had to do with women who had lost their Canadian citizenship by marriage to aliens prior to the coming into effect of the present act, that is previous to 1947. The Royal Commission regarded this as unjust, which I think it certainly is, and they wanted such women to be given their citizenship automatically and retroactively. We resisted the retroactive idea, for a number of reasons, mainly because giving someone unasked for citizenship may have a very serious effect on their status in many ways. It is a long time ago and they have not been citizens for a long time and have, in most cases, quite adjusted to that status. We have made a provision that such women may simply write to the minister and tell him that they wish their citizenship to be restored and this will be done automatically.

The fourth and fifth recommendations of the Royal Commission had to do with children. The fourth was that either parent may apply for Canadian citizenship for their child, and the fifth was that either parent may apply on behalf of an adopted child. Those have been dealt with.

Other aspects of the matter of making the bill more equitable have to do with the language knowledge requirements, as a matter of fact all requirements. There are no longer exempt classes of people. Under the present act, if the applicant has been here a certain number of years, or is over a certain age, or one thing and another, certain parts of the requirements are not applied. Bill C-20 again treats everyone equally in this regard, but there is a very definite forgiveness feature built in to recognize that not everyone

can pass the same tests. I am sure we will get into that in detail.

The final part of the "equitable section," if I may call it that, is that there is no further preference shown to British subjects. When the present act was written, in 1946, it was a fairly assumption that a British subject spoke English and came from a country with a parliamentary form of government. It is still pretty safe to assume that English is spoken, but it is certainly not safe to assume that they are familiar with the same form of government that we have. Therefore, British subjects are treated under the bill in the same manner as any other applicant.

The second major principle of Bill C-20 has to do with limiting the discretionary power of the minister. The present act gives the minister really immense discretionary powers. If you look through the act, you find again and again the phrase: "The minister may in his discretion"; it is all over the place. As a result, quite often an applicant really does not know where he stands; he does not know whether what he has applied for is going to be given to him or not, or when or how, and it leaves the applicant in a state of limbo in many ways. Under this limiting of discretion, there are two points I would like to make. The first is that Bill C-20 is written so that citizenship is a right under conditions. This has been misinterpreted in many ways to mean that anyone may march up to the door of a court, knock three times and say "The bill says citizenship is my right, so please hand it over." By no means is that the case. It simply means that if the applicant satisfies the various conditions laid down, then citizenship shall follow as of right. In other words, there will be no discretionary introduction of proceedings. There will be no maybes. It will be "You do" or "You do not" qualify.

The other part under the limiting of discretion has to do with the "good character" requirement of the present act. One of several conditions under section 10(1) of the present act is that the applicant "be of good character," in the opinion of the people we will call judges under this act. It has been an immensely difficult requirement, in that there is no unanimity as to what "good character" means. It is not really clearly definable. It has not been a very successful condition in that through the years very few people have been refused on the basis of lack of good character. The number has varied between one in 2,000 and one in 4,000, depending on the particular year you are talking about.

It applies to applicants an arbitrary test which is not applied to the native-born. There are numbers of reasons why that particular phrase has been dropped.

The third principle—this is the last one—is one I have already alluded to, that is, to make the application process clear and fair. One of the things that has been done is to give both the applicant and the minister the right of appeal from the decision of a citizenship judge. This does not exist in the present acts, because all that the citizenship judge does under the present act is to recommend to the minister. He makes no findings, really. He makes recommendations, and the minister may or may not accept them.

Under the bill the judge decides, on the basis of the information provided, whether or not a person should be a citizen, and the information is conveyed to the minister. But the act is done then and there.

In the bill we are proposing to drop the two-year waiting period which now exists. If a person applies for citizenship under the present act, and, for some reason or other, fails, such person must wait an arbitrary two years before he or she may reapply. This legislation gives him the right to apply again when he feels he is ready to do so. If he goes home, does his homework diligently, and comes back in three weeks, we will not prevent him from trying again. On the other hand, we think this will not be used frivolously, because he has to pay a fee to reinstitute proceedings.

The final part of the matter of clarifying the process has to do with a three-month posting period which is in the present act. After a person applies, under the present act his application is theoretically posted in a public place for anyone to object to. Senators will recognize a very old and honourable idea, but it really does not work. We have had no objections that I know of in the last several years. It simply delays the process by three months.

There are a number of individual points in the bill. As you know, it reduces the age limit from 21 to 18 in conformity with the Elections Act and many other practices today. The oath adds the words "Queen of Canada", quite specifically. They are not in the present oath. It does give the minister and the Governor in Council certain small positive discretionary powers which are not in the present act. Senator Forsey will recognize this argument. There are under the present act a number of cases where clearly unjust things have happened to people through a peculiar combination of events which no one could forecast.

The present act gives the minister or the Governor in Council no power to do anything about this. Something may have happened which is clearly wrong, in terms of natural justice, and the minister can only shrug and write a letter and say "I am sorry, the act does not give me the power to help you." The bill does give him some limited powers and does give to the Governor in Council a broad power to intervene in difficult situations.

Finally the bill establishes for the first time the position of citizenship judges. That may sound surprising; but the present act was written to make use of the existing court system, and to use provincial courts. Through the years the load became too great, and we established our own operation. But the people who make findings are technically courts. They are persons appointed as courts for the purposes of the Citizenship Act. There has always been a great problem as to what to call these people. They were called presiding officers for a long time. Finally we got permission to call them judges, if they wished.

The bill now establishes that they shall be called judges. But I emphasize that they are not judges under the Judges Act. They are simply entitled to use the name "judge." I think that is as far as I should go.

The Chairman: Thank you, Mr. Nichols.

Senator Carter: I should like to ask a few questions before going to another committee. I would like to come to the question of equality. Does the act make provision for dual citizenship?

Mr. Nichols: Does the bill make provision?

Senator Carter: Yes.

Mr. Nichols: Yes. Dual citizenship is not limited by Bill C-20. Dual citizenship exists in many cases under the present act. It is a very common occurrence.

Senator Carter: I have listened carefully to what you have said about this and may have misunderstood you. Does a Canadian citizen who marries a citizen of the United States lose her citizenship by the act of marriage?

Mr. Nichols: No.

Senator Carter: So if a Canadian woman married a spouse who is a citizen of the United States, she still retains her Canadian citizenship, without any conditions? She does not have to come back to renew it?

Mr. Nichols: Not now. There was a time when she had to. But not now, and not under the bill.

Senator Carter: If that Canadian woman has two children, can the children be declared Canadian citizens when this act comes into force?

Mr. Nichols: Yes.

Senator Carter: But if she has two children, one born before the act and one after, and one is a Canadian citizen and one is not —

Mr. Nichols: Unless the "not" one happened to be born in Canada. But if they were both born in the United States —

Senator Carter: Yes.

Mr. Nichols: Then your supposition is correct.

Senator Carter: That seems to me to be a breach of the equality you were associating with the act.

Mr. Nichols: There is no doubt that the act is inequitable, but the bill is not. I am sorry, have I misunderstood you? In your example, if that Canadian mother in the United States has a child today, that child is an American citizen. But after the coming into force of this bill, that child can also be a Canadian citizen.

Senator Carter: If the child is born before the act comes into force?

Mr. Nichols: No, after its coming into force.

Senator Carter: Only after?

Mr. Nichols: Yes.

Senator Carter: So if there are three children and only one is born after the coming into force of the act, the other two are deprived of automatic citizenship?

Mr. Nichols: There is also provision in the bill providing for the child born today. This was inserted as a result of an amendment by the committee of the House of Commons. So, application may be made on behalf of that child as well.

Senator Carter: So the bill makes provision for that child to obtain citizenship on application?

Mr. Nichols: Yes.

Senator Carter: Is that at the discretion of the minister?

Mr. Nichols: No.

Senator Carter: Why, then, does application have to be made? Who grants the citizenship if application is made by the mother on behalf of the child?

Mr. Nichols: The wording of the clause is that the minister "shall grant"—It is not a discretion. If application is made, he shall grant citizenship.

Senator Forsey: What clause is that, Mr. Nichols?

Mr. Nichols: It is clause 5(2)(b).

Senator Carter: If the minister has no choice, what is the purpose of that clause? Why not make it automatic?

Senator Rowe: What would happen if the minister refused to sign the certificate?

Mr. Nichols: He cannot. If application is made, the minister shall grant it.

Getting back to Senator Carter's question, the answer is that not all mothers want all children to become Canadian citizens. It gives them the option. If a child is born in the United States, there may be very sound reasons for wanting that child to retain his American citizenship.

Senator Forsey: She may want him to be President when he grows up—a foolish ambition.

Senator Sparrow: What, then, would constitute dual citizenship in this case? Could such individuals then have both American citizenship and Canadian citizenship?

Mr. Nichols: Yes.

Senator Sparrow: That is a case where an individual would have a birthright to dual citizenship, is that correct?

Mr. Nichols: I cannot speak with any great authority on the American law, but my understanding is that if an individual is born on U.S. soil, he is automatically an American citizen.

Senator Sparrow: And we are prepared to give Canadian citizenship to individuals regardless of what other citizenships they may hold. We place no restriction on that whatsoever.

Mr. Nichols: That is right.

Senator Sparrow: They do not have to renounce citizenship of any country?

Mr. Nichols: Renunciation of one's citizenship takes no effect, in any event. There was at one time a provision in the present act which stated that in order to become a Canadian citizen, you had to renounce your former citizenship. That provision was meaningless, because you cannot affect the law of the country in which you were born. That provision was idle.

Senator Rowe: I have a very personal interest in this in that one of my grandchildren was born in the United States while his parents were attending university. All of them are now living in Canada. As I understand it, when he reaches the age of 21, he has to make an election as far as his U.S. citizenship is concerned.

Mr. Nichols: That is correct, under the present act. It is a protection for the child. The child's citizenship, in a way, is held in abeyance until he becomes an adult, at which point he can make his choice. That is the principle behind it.

Senator Rowe: If at that point he chose to retain his rights as an American citizen by virtue of having been born on American soil, he would automatically lose his Canadian citizenship, or would he?

Mr. Nichols: No.

Senator Rowe: So, he would be a citizen of two countries?

Mr. Nichols: Are we dealing with the present act or the bill, senator?

Senator Rowe: I am dealing with what is going to be. I am wondering what the situation will be should this bill become an act of Parliament.

Mr. Nichols: You are talking about a grandchild who exists?

Senator Rowe: Yes, I used my own grandchild as an example.

Mr. Nichols: Under the present act, when your grandchild reaches the age of 21, he will make an election as to whether or not to retain his Canadian citizenship. By not doing so, he remains an American citizen. If he does an active thing, if he fills out a piece of paper, for example, he retains his Canadian citizenship. He has to do that before he is 24 years of age, which gives him a grace period after reaching the age of 21.

Senator Forsey: Mr. Chairman, may I suggest that it would help very much if, when people are asking questions, they were careful to say "bill" when they are referring to this, and "act" when they are referring to the present law? Otherwise, I think it becomes a little confusing for the witnesses, and possibly for the rest of us also.

The Chairman: That is a perfectly good point, Senator Forsey. I think the witnesses have been quite explicit in distinguishing between what is the law until this passes, and the bill which is before us.

Senator Forsey: They sometimes seem to be a little uncertain about whether senators are asking about the existing law or the *projet de loi* as we say in French.

Mr. Nichols: Mr. Chairman, perhaps Mr. Levy could elaborate further on the earlier point.

Mr. Lewis Levy (Director of Legal Services, Department of Secretary of State): Mr. Chairman, this point is a rather technical one, and perhaps I might be at somewhat of an advantage in explaining it. Let me say that insofar as children of Canadian fathers are concerned, there will be no difference as between the present act and Bill C-20.

Taking the example of Senator Rowe's grandchild who was born in the United States, even under the present Canadian act, that grandchild would not lose Canadian citizenship by filling out the American form of retention, if that is still required, because the automatic loss clause that presently exists in the Canadian act refers to the acquisition of the nationality or citizenship of a country other than Canada by a voluntary, informal act.

We view the retention as a different thing than the acquisition. If someone, under the present law, goes to another country, not having the citizenship of that country, and takes steps to attain that citizenship, then under the automatic loss clause, he will lose Canadian citizenship; but if that citizenship is acquired automatically, without doing anything, as is the case in certain countries where you get it unless you say you do not want it, or it is merely retained, that would not be classed as an acquisition, but as a retention.

Bill C-20 simply equalizes the situation as between children whose mothers are Canadian and children whose fathers are Canadian, and also removes the automatic loss clause which is completely ineffective because it only operates when you know about it.

There are some countries where even if you try to renounce your citizenship, unless that renunciation is accepted, you do not lose it. Take, for example, some Eastern European countries. Accompanying most passports recently, is a little piece of paper with a warning about going to Eastern Europe if you were originally a national of one of those countries. This is included because even if you were to stand in front of the Centre Block of the Parliament Buildings and solemnly swear on a stack of bibles that you renounced your citizenship of that country, it does not necessarily follow as a matter of law, that such renunciation is accepted. Such a person would have Canadian citizenship and his original foreign citizenship. I have gone a little beyond your question in trying to explain this provision, but your grandchild would not lose.

Senator Rowe: There must be many thousands in Canada in that position.

Senator Thompson: Is the renunciation clause removed from the citizenship procedure? I am referring to renunciation of an applicant's former homeland, when it used to be declared that the applicant no longer had allegiance to it. Is that removed in the present bill?

Mr. Nichols: Yes, indeed; we did not do that even under the present act; it takes no effect.

Senator Thompson: Even if it is given no effect, formerly in emergencies in Canada we locked people up because they were born in Germany, Italy and Japan—and perhaps the hysteria responsible for this was regrettable—because they felt allegiance to their former homeland.

Mr. Nichols: Unfortunately, the times you have mentioned were times when renunciation was required. We locked them up, but they still retained their citizenship.

Senator Thompson: But they did not have citizenship in time of war, did they?

Mr. Nichols: They had British subject status in Canada, but if a person during or before the war came here from certain countries, Switzerland, for example and many of the eastern European countries, they simply did not recognize loss of their original status, no matter what they did.

Senator Thompson: From Canada's point of view I recognize that; my wife is from Eastern Europe.

Senator Yuzyk: Is there loss of citizenship if a Canadian citizen takes out citizenship in the United States? Would that be automatic?

Mr. Nichols: Under the present act, yes.

Senator Yuzyk: But that would not be so under this bill?

Mr. Nichols: No.

Senator Yuzyk: So, actually a Canadian citizen can take out citizenship in the United States and, according to this bill, not lose his Canadian citizenship?

Mr. Nichols: That is correct.

Senator Yuzyk: And take full part to the extent allowed in the political activities of both countries?

Senator Nichols: Depending on where he is residing at the time and the residency requirements.

Senator Carter: You mentioned with respect to citizenship courts, or judges, that the words "Queen of Canada" are now written into the legislation.

Mr. Nichols: They are written into the oath to be taken under the legislation.

The Chairman: Are there further supplementaries on the question of dual citizenship?

Senator Sparrow: I am somewhat confused about the dual citizenship. It appeared to me from your answer with respect to dual citizenship that if a person automatically received citizenship in another country without positively applying for it there would be a difference. However, your reply to Senator Yuzyk was that no, it did not matter; if a person acquired American citizenship he would still hold Canadian citizenship. It seems to me that there is some difference there; would you explain that, please?

Mr. Nichols: It is another confusion, Mr. Chairman, between the act and the bill.

Senator Thompson: We are discussing what this bill will do.

Mr. Nichols: Under the bill there is no automatic loss, as we term it. I have to refer to the act because "automatic loss" only occurs if the second citizenship was acquired by a formal act. Under the present act, if citizenship and nationality of a country other than Canada is acquired by any voluntary and formal act other than marriage, Canadian citizenship is automatically lost. That is under the present act; under the bill there is no such requirement. That is, again, there is no automatic loss clause.

Senator Sparrow: I could as a Canadian citizen go to the United States, move there, take landed immigrant status, spend my five years as a landed immigrant, apply for American citizenship, receive it and still hold my Canadian citizenship and be able to cross the border at any time and have full rights as a Canadian citizen; is that correct?

Mr. Nichols: Essentially, yes.

Senator Sparrow: What do you mean by "essentially"?

Mr. Nichols: The Americans may have certain restrictions on it of which I am not aware.

Senator Yuzyk: A person could become president of the United States.

The Chairman: He must be born there to become president.

Senator Yuzyk: Yes, that is an exclusion.

The Chairman: You may become a congressman, or maybe you could be a senator in both countries, but you would have to run there.

Senator Yuzyk: That is what I mean.

Mr. Nichols: And the Americans could adopt multiculturalism.

Senator Forsey: Now we know Senator Yuzyk's secret ambition.

Senator Yuzyk: It could happen; I have a grandchild who was born in the United States.

The Chairman: Senator Sparrow, I am anxious to have your question clearly answered by the witness, because I did not realize this myself and I must confess that I find it rather astonishing.

Senator Yuzyk: Is this not rather revolutionary? Do other countries have similar laws?

Mr. Nichols: In many other countries of the world, as I mentioned earlier, a person's citizenship cannot be lost, no matter what they do. Some of those countries are highly regarded by Canada; Switzerland for example.

Senator Rowe: If I moved down to the United States, took out citizenship papers then applied to Canada to renounce my citizenship, I would then cease to be a citizen of Canada, as I read clause 8 of the bill.

Mr. Nichols: What edition of the bill do you have, senator? There is no automatic clause contained in the latest one.

Senator Rowe: This is the one that was passed out this morning and it is clause 8.

Mr. Nichols: You are referring to renunciation.

Senator Rowe: Yes.

Mr. Nichols: It is quite a different thing; you may renounce your citizenship as a matter of right under Bill C-20 under certain conditions. However, that has nothing to do with the automatic loss of citizenship.

The Chairman: So, to be quite clear with respect to this—I am not dealing now with birth—but if as a conscious act a grown man or woman goes to another country, applies for citizenship there which is granted, they do not lose their Canadian citizenship?

Mr. Nichols: Correct.

The Chairman: But he may by another conscious act renounce his Canadian citizenship?

Mr. Nichols: That is correct.

Senator Sparrow: Even if it was said to the United States government on the stack of bibles to which you referred: "I hereby renounce my Canadian citizenship" and so on, that is nothing to do with us. They may make us satisfy their requirements, but whatever they do, that person is still a Canadian citizen unless he actively renounces such by a letter to the minister.

Mr. Nichols: By application.

The Chairman: May I ask this question of the witness: Will there be automatic loss of Canadian citizenship—I suppose the answer is no—under the new bill by the person exercising rights in the foreign country, such as voting—and the answer would be no, because therw would be no greater act you could take than applying for citizenship in that country?

Mr. Nichols: That is right.

The Chairman: But in the case of dual citizenship as a result of birth, under the new bill if a person with dual citizenship in, say, Canada and the United States, lives in the United States and votes in the United States, will that cause the loss of Canadian citizenship?

Mr. Nichols: No.

The Chairman: But the other way around, I believe it does; the American with dual citizenship, I believe, cannot

vote or exercise certain rights in the other country without losing his American citizenship. I may be incorrect in that.

Mr. Nichols: I cannot tell you.

The Chairman: It is not important, in any event.

Senator Forsey: Thank you very much, Mr. Chairman; I hope I shall not be regarded as a trespasser, seeing that I am not a member of this committee. I am very interested in this particular bill and have a lot of questions to ask about it. First of all, I would like to record my protest against the witness's description of British subjects as aliens. I notice he said "British subjects and other aliens." I strongly object to that —

The Chairman: I noticed that.

Senator Forsey: And I don't think it's an accurate statement. I think, despite any provision of this bill, incidentally, as long as we cannot amend certain parts of our Constitution without an act of the British Parliament we remain British subjects whether or no. So that if British subjects are to be described as aliens, I think everybody in this room must be described as a Canadian citizen and an alien at the same time. It seems to be a rather odd situation.

However, I strongly object to British subjects being described as aliens. I was born in Newfoundland and I never considered that when I came into Canada from Newfoundland I came to a country where I was regarded as an alien. Of course, I have perforce become, at the age of 45, by a strange and unnatural process, a native born Canadian. But I still object very strongly to this and I trust that the term will not be used unless there is some solid foundation for it in law that I am not aware of. But, of course, I speak subject to correction, because I am not a lawyer.

The Chairman: Senator Forsey, on that point, I would be interested if you would not object to the witness responding.

Senator Forsey: Yes.

Mr. Nichols: Mr. Chairman, as I have said to Senator Forsey many times when I was a student of his, sir, you are absolutely right.

Senator Forsey: I am glad to have my illegal opinion confirmed on this point. The second point I wanted to raise in general was in reference to what the witness said about the disappearance of the present law with regard to odd people. My reading of the bill is that in section 5(3)(b) there is provision for the minister to "waive on compassionate grounds ... the requirement respecting age set forth in paragraph (1)(a)". So there would still be a certain discretion in the minister to make some allowance for somebody who, as we say in Newfoundland, was "wonderful old"?

Mr. Nichols: That is correct, sir. It is simply not a blanket exception anymore.

Senator Forsey: But there is provision there, in something?

Mr. Nichols: Yes.

Senator Forsey: The third point that arose out of what the witness said is this: he said that formerly we were able to assume that British subjects would probably know English and would be living under much the same form of government as our own. We could still assume that they would probably know English. Incidentally, I am a little doubtful whether we could always have assumed that they did live under the same form of government even formerly, but even now I should have thought that most British subjects still live under a form of government similar to our own, because the people who live in republics in the Commonwealth surely would not be British subjects, would they?

Mr. Nichols: Yes. There are member countries of the Commonwealth, several of them, which have presidential forms of government.

Senator Forsey: Yes, I know; but are their citizens British subjects? Is a citizen of India a British subject? I should have thought not now.

Mr. Nichols: My British subject list is not up to date, I am afraid, senator. The latest one I have includes India, Ceylon, Pakistan. I know that some of them are out of date.

Senator Forsey: I really wonder whether the people of those countries are now, in fact, British subjects. I wonder if a court would so find.

Mr. Nichols: We could check that. We have an up-to-date list, of course, and there is also a list in the Interpretation Act of Commonwealth countries. It is an easy matter to check.

Senator Rowe: Is India considered a republic?

Senator Forsey: Oh it is a republic. I should have thought that since it became a republic its citizens, though they would be Commonwealth citizens here, would not be in law British subjects. But I don't know. I'm afraid this is a purely scholastic interest in the matter. It is probably of no practical significance at all.

The Chairman: I think we should ask the witnesses if they would obtain a current list and let us have it.

Senator Forsey: Essentially I suppose their reply would be that whatever these people may consider themselves, or whatever the Indian law, or the Sri Lanka law, whatever it might be, considers them, under Canadian law they remain British subjects willy nilly. This thing becomes more and more complicated as we proceed.

The Chairman: Mr. Levy has a comment on that, senator.

Mr. Levy: Senator Forsey, subsection 23(1) of the existing Canadian Citizenship Act states that:

> Every person who under an enactment of a country listed in the first schedule as a citizen of that country has in Canada the status of a British subject.

Senator Forsey: That answers the question.

Mr. Levy: And if you look to the schedule, it says India. The way it exists now, the only way that schedule can be amended is by an act of Parliament.

Senator Forsey: That answers the question. I am afraid it was a foolish and stupid question.

Mr. Levy: Not at all.

Senator Forsey: The last thing I want to raise now with the witnesses is whether, in spite of what Mr. Nichols said

about removal of discretionary powers in the minister, there are not still quite considerable discretionary powers residing in the minister. I have gone through the bill and I marked with a large "D" in the margin quite a considerable number of these. I have eight of these large "D"s. Some of them, I think, are of some importance. I will come back to those perhaps later on when we come to consider the clauses. But am I correct in thinking that there do remain certain discretionary powers?

Mr. Nichols: Yes; all except one, however, on what we call in our own shorthand a positive discretionary power. There are points in the bill which give him the power to help people instead of hindering them. But it is still all discretion. The only one I can think of that is still of the negative type that the act contains is in the security section.

Senator Forsey: Thank you, Mr. Chairman.

Senator Yuzyk: Mr. Chairman, I have to be leaving soon. I have two short questions. This is for clarification purposes. Is this a new act or is this an amendment of the former act?

Mr. Nichols: It is a new act.

Senator Yuzyk: This will be regarded as a new act and not an amendment of the previous act?

Mr. Nichols: Yes.

Senator McNamara: What was the title of the previous act?

Senator Yuzyk: The title of the previous act was the Canadian Citizenship Act, which leads me to the next question: why has "Canadian" been omitted, because clause 1 says:

> This Act may be cited as the Citizenship Act.

Why not the Canadian Citizenship Act?

Mr. Levy: If I may answer that, Mr. Chairman. When the bill was being drafted, the Department of Justice rightly pointed out that the only kind of citizenship act that this Parliament could pass would be an act respecting Canadian citizenship anyway. So therefore it would be considered superfluous to call it the Canadian Citizenship Act. Statutes are full at the moment with Canadian this and Canadian that, and obviously it could not be anything else. The tendency is to be a little more—"precise" is not a good word —

Senator Forsey: Getting rid of surplus verbiage.

Senator Yuzyk: But "Canadian" is not surplus. I think it is very fundamental in this act, because here is our Canadianship. Citizenship is really Canadianship.

Mr. Levy: Many countries refer to their statutes as the nationality act or citizenship act, because it is obvious that they could not deal with anyone else's.

Senator Yuzyk: I have just one further question, because I have to be leaving very shortly. It is about the matter of citizenship being granted in three years rather than five, when many of the countries of the world still retain five years for many reasons.

What are the advantages, as the department sees them, of reducing the residency requirement from five years to three years, bearing in mind that it may be the case that many of the candidates for Canadian citizenship will have come from countries that have not experienced any democratic form of government, with the result that their adaptation to our way of life is a little more difficult than, say, it would be had they come from countries that had, or do have a democratic form of government?

Mr. Nichols: Mr. Chairman, the senator has touched on the precise reason. Some people take longer than others to adapt to our way of life. If we were to set a time based on the average length of time that it takes people to apply, it would be somewhere between 11 and 12 years. Even at that, we would be ignoring those who take 25 or 30 years to apply.

People who come to this country with one of the official languages as their language, having come from a country with a similar form of government, possibly having relatives, friends, business contacts, or what have you, in this country, are more capable of participating in the political system than those who do not have that good fortune.

The reduction in the residency requirement to three years simply permits people to try for citizenship at the end of three years, if they feel themselves ready. Obviously, a person who has not yet be come acclimatized to Canada, and who does not speak one of the official languages, will not succeed, and probably will not try.

Senator Yuzyk: Personally, I am in favour of the reduction to three years. I am simply wondering what the past experience of the department has been in relation to applications under the five-year provision. How many applications would have been turned down?

Mr. Nichols: The turn-down rate is not high, senator. I have figures tucked away in my briefcase, if you would like me to dig them out. It is really quite a low percentage.

Senator Yuzyk: In other words, five years was a reasonable period, up to this time? I can readily understand that there are many who might qualify earlier, and why shouldn't they? I wanted to get some statistics on the number of rejections. If you say it is a very low rate, that is evidence enough that the five-year residency requirement could be reduced to four years, or to three years in the case of many. There are others, of course, who will take longer to adapt.

Have you any statistics regarding people who reapply after being turned down?

Mr. Nichols: Not with me.

Senator Yuzyk: Of course, we have the two-year waiting period under the present act. I suppose we cannot judge from that just how soon they would be ready after being turned down.

Mr. Nichols: I can only answer that the turn-down rate is very low. I can provide more precise figures to the committee at a later date.

Senator Yuzyk: I think it would be useful to have those figures on the record. Personally, I am in favour of the reduction to three years. It will enable those who have adapted to the Canadian way of life to gain citizenship much sooner than is presently the case.

As I understand it, applicants can apply as often as they wish after qualifying under the three-year residency requirement.

Mr. Nichols: When they feel themselves ready.

Senator Yuzyk: I think it is an excellent provision in that respect.

Senator Forsey: I suppose you picked three years on the same basis that Sir Robert Borden gave for the width of a five-mile right-of-way along the proposed Hudson's Bay railway for the province of Ontario. When they brought in the Manitoba Boundary Bill of 1912, he was asked why it was five miles and not something else, and he finally said, "The matter was deliberated upon in council and five miles was deemed to be a convenient width." So I suppose the matter was deliberated upon in this cases and you decided that three years was deemed to be a convenient period.

Mr. Nichols: There is not much I can add to that, Senator Forsey. The residency requirement has varied in Canada between one and seven years at various points in our history. It has been set at five years now for a long time, but there is nothing magic about that figure. We looked for a number somewhat less than that, and we arrived at three years.

The Chairman: Senator Sparrow.

Senator Sparrow: I can certainly see why people would want to become Canadian citizens as quickly as possible, and why we as Canadians would want them to be citizens.

What advantages are there to becoming a Canadian citizen in relation to travelling outside the country, or other external influences? Did you find that there were external factors making it advantageous for people to become Canadian citizens in less than five years?

Mr. Nichols: There is no doubt that you cannot get a passport, under normal circumstances, unless you are a Canadian citizen. According to the statistics, the people who apply soonest—and this is a wide generalization, and something on which I would not want to be question too closely—are those who cannot return to their native lands, people who are stateless, who fear to go home. These are people who need citizenship status.

Relating those people to your question about international travel, those are not people who particularly want a passport in order to return to their native lands. I do not think there is any great tie between external functions and the time in which people can qualify for Canadian citizenship.

Senator Sparrow: Relating my question to the situation of a person who had come here from an Eastern European country, such an individual would not be issued a passport to travel to other parts of the world until he had obtained citizenship status. Such individuals would be restricted in their travels outside this country by virtue of the fact that they could not obtain an up-to-date passport. Is that a factor?

Mr. Nichols: That is possibly true. It is hard to generalize in that area.

The Chairman: Senator Rowe.

Senator Rowe: Just a short question, Mr. Chairman.

I understood you to say, Mr. Nichols, that the "good character" clause which is presently in the act is dropped in the bill. Is that correct?

Mr. Nichols: Yes.

Senator Rowe: I served very briefly on the Committee last year which was studying the Green Paper on Immigration. As I recall it, there were some restrictive clauses contained in that Green Paper which made it impossible for someone convicted of an heinous or infamous crime, which included, as I recall it, prostitution to enter Canada. The inclusion of prostitution was something to which I objected—not for any personal reason, but on the ground that during World War II, for example, many thousands of European women were convicted of prostitution, but were not prostitutes in the ordinary sense of the word.

Assuming that someone enters Canada with a clear record and is intending to become a citizen of Canada, but in the meantime is convicted of some infamous or heinous crime, or, for that matter, prostitution, or what have you, would that automatically preclude the possibility of that individual obtaining citizenship?

Mr. Nichols: For a period of time. This is dealt with in clause 20 of the bill. The way the bill is written, people in Canada who have been convicted of any indictable offence have certain restrictions against them.

Senator Forsey: It reads:

> — while he is charged with, on trial for, subject to or a party to an appeal relating to an offence under subsection 28(1) or (2) or to an indictable offence under any Act of Parliament;

Mr. Nichols: Yes.

The Chairman: So if he is convicted, sentenced, serves his term and pays his debt to society, as the expression goes, he is then free to apply?

Mr. Nichols: Yes.

The Chairman: But does his time run when he is in prison?

Mr. Nichols: No. The reason for that is that the whole basis of the residence requirement is, in old terms, to demonstrate a change in domicile. What it really means is to acclimatize to Canada, to learn what is going on and become a part of society. We really thought that while in prison this would not be the case.

The Chairman: It is not a normal form of acclimatization.

Mr. Nichols: No.

Senator Barrow: Mr. Chairman, I understood Mr. Nichols, when he was discussing the various items that were changed, to say that the oath of allegiance to the Queen of Canada was not contained in the new legislation.

Mr. Nichols: No; it is just the opposite.

The Chairman: Honourable senators, are you prepared now to go through the bill clause by clause, or are there further questions of a general nature?

Senator Sparrow: You asked if the clock stopped while a person was in jail. Where does it say that? For instance, a person could enter Canada, go into jail for three years, be released and apply for citizenship.

Mr. Nichols: It is clause 19, senator.

Senator McNamara: With respect to the good character provision, there is a case in Canada now in which an alien

entered Canada but there is some question as to his right to be here because of his military activities in another country. Is that good character? Could a person from Vietnam, for example, apply for citizenship after three years, or does the fact of his previous indictments in that country stand in his way? I think you know to whom I refer.

The Chairman: Is a person who was convicted of offences in the other country before coming to Canada disqualified? I think that is your question.

Senator McNamara: Or after having come to Canada.

The Chairman: Or, after having landed here, was then accused at home?

Senator McNamara: Yes.

Mr. Nichols: My understanding is that the hypothetical person to whom you are referring has not been landed.

Senator McNamara: He is not a landed immigrant?

Mr. Nichols: No, he is not.

Senator Forsey: He is suspended, like Mohammed's coffin between earth and heaven, is he?

The Chairman: I think you will recall, with respect to the amendments to the Immigration Act we dealt with several weeks ago when Mr. Andras was before us, that that type of thing gets caught under the Immigration Act, rather than the Citizenship Act, by stopping such persons at the border or removing them from the country after they have entered.

Are you prepared to go through the bill clause by clause?

Hon. Senators: Agreed.

The Chairman: I might say, Senator Forsey, in anticipation of your possible concern with certain clauses of the bill—I am entirely in your hands in this—if it would be of assistance to you —

Senator Forsey: There may be more than that; I mentioned eight clauses which contain discretionary power, but I have in mind many more than that.

The Chairman: I quite understand. I was about to suggest that if we arrive at points as we go through the bill clause by clause to which you have objections which apply to several clauses, we could possibly stand those clauses and deal with some of your points at that time.

Senator Forsey: That would be very satisfactory.

The Chairman: I will leave that to you when we come to such clauses. Shall clause 1, the short title, carry?

Hon. Senators: Carried.

The Chairman: Shall clause 2, Interpretation, carry?

Senator Forsey: Mr. Chairman, in relation to the term "Court" at the bottom of the first page—""Court" means the Federal Court—Trial Division"—it is possible that I shall be asking questions later with respect to the possible appeal from the trial division of the federal court and I wonder whether I should simply make that caveat now, or what the effect of that would be? It is possible that someone might on my behalf propose an amendment to change the clause dealing with the appeal to the trial division being final.

The Chairman: I do not know that that would change the definition, though, would it?

Senator Forsey: That is what I wonder, because I have forgotten what clause that is.

The Chairman: We will let clause 2 stand, as to the definition of the word "Court" only.

Senator Forsey: Yes, because later on, in clause 13(5) you will find "The Minister or the applicant may appeal to the Court—". Then that is limited by a subsequent clause providing that there is no appeal to the Appeal Division of the Fedeeral Court.

Mr. Levy: That is quite right.

Senator Forsey: So I thought it would be better to say that, than do something which might preclude us from proposing a probable amendment to a later clause.

The Chairman: Clause 2 stands.

Senator Barrow: Mr. Chairman, while we are discussing the matter of the court, what does the citizenship judge preside over? Is it a citizenship court?

Mr. Nichols: That is very tricky ground and I am sure that I should enlist Mr. Levy's assistance in replying to your question.

Senator Barrow: The reason for asking that is that I periodically go to what I understand to be a citizenship court to see new citizens receive their citizenship.

Mr. Nichols: Yes, we call them courts in law, as I understand it. Mr. Levy can correct me if I am wrong. It is the judge himself who is the court; he is a person designated as a court because we use the trappings of a courtroom—lots of red velour, a flag, and all the rest of it.

Senator Barrow: And a representative of the federal government.

Mr. Nichols: It is an easy form of shorthand to call it a court of citizenship.

The Chairman: But the same argument could be made on behalf of almost any other court. Why the distinction in this case?

Mr. Levy: When you are dealing with the regular courts of law, there is a court to which judges are appointed and over which they preside. Under the present Canadian Citizenship Act we have no court of citizenship, or courts of citizenship; we have people designated to be courts. They are *persona designata.*

The Chairman: Or people designated to be judges, but they are not members of a court.

Mr. Levy: Under the new bill they will be called judges, but they are not members of a court. You could call the location, the place where the citizen judge will carry on his duties, a court.

Senator Forsey: But the word "Court" in this interpretation section means specifically the Federal Court—Trial Division.

Mr. Levy: That is right, sir.

Senator Forsey: And, in fact, you don't refer in the bill, as I read it, to a citizenship court, do you?

Mr. Levy: That is right.

Senator Forsey: Legally, there is no such animal.

Mr. Levy: That is right.

Senator Forsey: The bill only refers to a judge, never to the court.

Mr. Levy: That is right.

The Chairman: I am sorry, I had not noticed that the definitions are contained in only subclause (1) of clause 2. We come nos to subclause (2). Are there any questions on clause 2(2)?

Clause 3. Shall clause 3(1) carry?

Hon. Senators: Carried.

The Chairman: Clause 3(2). Shall clause 3(2) carry?

Hon. senators: Carried.

The Chairman: Shall clause 3 carry?

Hon. Senators: Carried.

The Chairman: Clause 4. Shall clause 4(1) carry?

Hon. Senators: Carried.

The Chairman: Shall clause 4(2) carry?

Hon. Senators: Carried.

The Chairman: Clause 4(3).

Senator Forsey: Mr. Chairman, I have a number of questions to ask here. I might add that pretty well all the questions I shall be asking arise out of my duties as one of the chairmen of the Joint Standing Committee on Regulations and Other Statutory Instruments. As I explained in the Senate, we have had a great deal of difficulty in many instances in our work, when we were trying to examine documents—I call them documents, to avoid the loaded word "instruments"—which we thought we were intended by Parliament to examine. We found that thanks to the specific wording of the enabling legislation we were debarred from doing so—or, at least, there was an argument that we were debarred from doing so. Some of us made up our minds some little time ago that when new legislation came before us in either house, we would examine it rather carefully to see that something did not get in by inadvertence which would prevent us from performing the duties which we think Parliament has entrusted to us.

It seems quite clear, on the interpretation of the extraordinarily obscure definition of a statutory instrument in section 2(1)(d) of the Statutory Instruments Act, that the minister's extension of the period under clause 4(3)(b) would not be a statutory instrument, because according to the interpretation that has been placed on this by the legal officers in the Privy Council office, you would have to say:

> — as the minister may by order authorize —

There are certain magic words that have to go in, otherwise the thing isn't a statutory instrument.

So if we were to have an opportunity to examine any of these extensions by the minister, this would have to read:

> (b) within such extended period as the minister may by order authorize —

Then it comes within our purview.

As has been suggested to us by counsel to the committee, we could, of course, introduce the English practice of saying:

> — as the minister may by statutory instrument authorize —

But the probability is that the legal officers of the various departments, most of whom, incidentally, are officers of the Department of Justice, would say that this doesn't work because the Statutory Instruments Act doesn't include anything similar to what it has about regulations. It doesn't say that a statutory instrument includes any instrument described as a statutory instrument.

So I would like to know what particularly the legal officers would have to say about this. It seems quite clear that under the interpretation adopted by the legal officers of the Privy Council office—an interpretation which, incidentally, our committee is not prepared to accept, because we consider it both a compounding of the obscurity of the definition and self contradictory; nevertheless we are faced with it, but the battle has not yet been fully joined—under that interpretation it would appear that the authorization of the extension of the period by the minister under clause 4(3)(b) would not be a statutory instrument.

Is there any reason why the government would object, or the Department of Justice would object, to having the words "may by order authorize" there, so that we shall be able, in our committee, to examine these extensions of the period?

Mr. Nichols: Perhaps I could say a couple of general words, and then turn it over to Mr. Levy. It is not a statutory instrument, we agree. It was not intended to be a statutory instrument. I do not know if the senator realizes that the same kind of thing exists in the present act.

Senator Forsey: That is no recommendation to me.

Mr. Nichols: Quite true, but the senator is often impressed by historical precedents.

Senator Forsey: Not always.

Mr. Nichols: These are individual cases that we are talking about. I remember the senator's speech in the Senate when he talked about whether it was for individual cases or mass cases. These are individual cases, and they are decided individually on their merits. There are a fair number of them in the course of a year. We do not really see what it is that would be examined.

Senator Forsey: We wanted to be clear about it. It appeared to us that because the subclause begins by speaking of a person, it was intended to be an individual. I do not have any further comment on that, or any question.

The Chairman: Does clause 4(3) carry?

Hon. Senators: Carried.

The Chairman: Does clause 4 carry?

Senator Forsey: That is, incidentally, one of the cases where the minister has a discretion, isn't it?

Mr. Nichols: That is right.

The Chairman: Again, as you pointed out earlier, it is a positive discretion. That could not be exercised in a negative fashion.

Senator Forsey: No.

The Chairman: We come now to clause 5. Shall clause 5(1) carry?

Hon. Senators: Carried.

The Chairman: Next, subclause (2) of clause 5. I believe paragraph (b) of subclause (2) resulted from an amendment by the other place as a result of representations from the Status of Women. Shall subclause (2) of clause 5 carry?

Senator Forsey: Again, Mr. Chairman, I have some questions on this.

In subclause (2), the top of page 5, the fifth and sixth lines, we have the words, "a person authorized by regulation", and that phrase appears again at the end of subclause (2)(b), "a person authorized by regulation to make the application".

We were a little uncertain about how this would work. The general regulation-making clause, clause 26, seems to be silent about the particular regulation required for the purposes of clause 5(2)(a) and, in effect, the same thing applies, I think, to clause 5(2)(b). We looked at clause 26, the general regulation-making power, and it did not appear to us that it was covered.

Counsel suggested to me that it might be covered under the general catch-all power of clause 26(1). Is that what the department is relying on? It reads:

> (1) providing for matters necessary for carrying into effect the purposes and provisions of this Act.

Mr. Levy: Yes, it is, senator. Also, the department places part reliance on clause 26(a), which states:

> (a) prescribing the manner in which and the place at which applications and registrations are to be made —

It is basically under 26(1). It is the position of the Department of Justice and the regulations officers of the Privy Council that where you have a provision in an act that says, as this one does, "a person authorized by regulation"—and you have the specific words "authorized by regulation"—and you have what they call a basket clause that says "may make regulations for carrying out the purposes and provisions of this act", then that is the authority.

Senator Forsey: That is what you rely on, essentially—clause 26(1)?

Mr. Levy: That is right.

Senator Forsey: I had not heard the term "basket clause". "Catch-all" is more familiar to me. That is very nice.

Mr. Levy: You may use it.

Senator Forsey: It recalls to me the name of an outport in Newfoundland called Empty Basket. But this will be a full basket, apparently—or might be.

Mr. Levy: If I may say so, senator, the use of a clause like that is limited to a case where you do have a provision in the act that makes specific authority to regulations being enacted. You may then use a clause like that; you cannot use a clause like that to invent regulations for purposes that are not mentioned in the act.

The Chairman: Shall subclause (2) of clause 5 carry?

Hon. Senators: Carried.

The Chairman: Shall subclause (3) carry?

Senator Forsey: In subclause (3) I notice that the minister may, in his discretion, waive on compassionate grounds, the requirement that a person take the oath of citizenship. That looks to me like a wide discretion, and somewhat dubious.

Mr. Nichols: There is a very good reason for it. As you will note that paragraph (b) states that it may be waived in the case of any person under a disability. Boiling it down into non-legal phraseology, it means that the minister may waive in respect of a person who is mentally incompetent. Such a person need not be of the age required to take the oath. It is all done in aid of family unity.

Senator Forsey: Or if he were dumb—in the literal sense, I mean, not the slang sense.

Mr. Nichols: Yes. It is another, as I described earlier, positive power. Cases do arise where we are asked to do this kind of thing, and under the present act the minister simply does not have the power to do so.

The Chairman: I have not examined the oath, but are there alternative oaths for people other than Christians?

Mr. Levy: One may swear or, if one does not believe in a higher authority, one may affirm.

Senator Forsey: Or if you are a Quaker and believe in a higher authority but object to swearing.

Mr. Levy: Yes, I should have said that.

The Chairman: So one can affirm.

Mr. Levy: Yes.

The Chairman: Shall subclause (3) carry?

Hon. Senators: Carried.

The Chairman: Shall subclause (4) carry?

Hon. Senators: Carried.

The Chairman: Shall subclause (5) carry?

Hon. Senators: Carried.

The Chairman: Clause 5, therefore, carries.

Next, we come to clause 6. Shall clause 6 carry?

Hon. Senators: Carried.

The Chairman: Shall clause 7 carry?

Hon. Senators: Carried.

The Chairman: Next, clause 8. Shall subclause (1) of clause 8 carry?

Hon. Senators: Carried.

The Chairman: Shall subclause (2) carry?

Hon. Senators: Carried.

The Chairman: Shall subclause (3) carry?

Hon. Senators: Carried.

The Chairman: Clause 8, therefore, carries.

Next, clause 9. Shall subclause (1) of clause 9 carry?

Senator Forsey: I have one question on this, Mr. Chairman. At the end of that subclause we have:

> — as of such date as may be fixed by order of the Governor in Council with respect thereto.

Why would the renunciation not make the citizenship void *ab initio*? Why on a date to be fixed by the order of the Governor in Council?

Mr. Nichols: Because the person involved might be escaping from something thereby. If the person became a member of a school board or a council, or something, and in the remote case there had been a vote with a majority of one, and he was it, then if we removed his citizenship retroactivity it could have all kinds of unknown effects on such matters.

Senator Forsey: And the whole thing would blow up?

Mr. Nichols: Conceivably.

The Chairman: Shall subclause (1) carry?

Hon. Senators: Carried.

The Chairman: Shall subclause (2) carry?

Hon. Senators: Carried.

The Chairman: Clause 9, therefore, carries.

Next, Part III, clause 10. Shall subclause (1) of clause 10 carry?

Hon. Senators: Carried.

The Chairman: Shall clause 10(2) carry?

Hon. Senators: Carried.

The Chairman: Clause 10 carries.

Part IV, clause 11(1). Shall clause 11(1) carry?

Hon. Senators: Carried.

The Chairman: Shall Clause 11(2) carry?

Hon. Senators: Carried.

The Chairman: Shall clause 11(3) Carry?

Hon. Senators: Carried.

The Chairman: Clause 11 carries.

Shall clause 12 carry?

Senator Forsey: Mr. Chairman, I am sorry to be a nuisance, but I have another question here, because it appears to counsel for our committee and myself that there is some overlapping between clause 12 and clauses 26 and 27. Clause 12 provides:

> — such fees shall be paid with respect thereto, as are prescribed by the Minister pursuant to this Act or by the regulations.

The regulations come under clause 26, I think, which appears to cover this matter. I do not think clause 27 would apply, but there appears to be some overlapping of clause 26. Is there any particular reason for that?

Mr. Levy: I do not say this gratuitously, but Senator Forsey's questions are always good and cause us to do some homework, which is only natural and right.

Senator Forsey: They are not really my questions.

Mr. Levy: In any event, you asked them, sir. It is our view that there is no overlap caused by clause 12 for the operation of clauses 26 and 27. Clause 12 in the opinion of the law officers of the Crown is a purely a prescriptive clause, which states:

> Where an application is made or a notice is given pursuant to this Act or a registration is made pursuant to section 7, it shall be made or given in such form and manner and at such place, and such evidence shall be provided and such fees shall be paid with respect thereto, as are prescribed by the Minister pursuant to this Act or by the regulations.

You proceed from that clause, which I stated is, in our opinion, a prescriptive clause providing, "as are prescribed by the Minister pursuant to this Act or by the regulations", and we jump then to two clauses which authorize things to be done—that is to say clauses 26 and 27.

If you turn first to clause 27, you will see that this act authorizes the Minister to prescribe only one sort of thing, namely forms. Under clause 26 it is the Governor in Council who prescribes everything else that needs to be prescribed. So, if you read that pursuant to this act or to the regulations the minister only prescribes these forms pursuant to this act. It is only a matter of drafting the forms.

Senator Forsey: So there is, in your view, no overlap?

Mr. Levy: No.

Senator Forsey: The thing we are worried about is if it is by regulations, we see it, but if it is by the minister we do not see it, and this involves also extraordinary powers of sub-delegation, which appear in clause 21, about which I will have some questions later.

Mr. Levy: You will have the regulations, sir, and the only thing the minister will prescribe are forms.

Senator Forsey: The question arises there as to why the forms are not included as a schedule, as is done in other acts?

The Chairman: Senator Forsey, it seems to me that the comma in the third from last line following the word "thereto", and before the words "as are prescribed by the Minister", would apply to clause 27 to which you refer, pursuant to this act or by the regulations in clause 26.

Senator Forsey: As long as we are quite clear about that.

The Chairman: It seems to me, at least, to be proper English in clause 12, and clear enough. Your question as to whether or not the forms should be prescribed in the act we will deal with when we get to clause 27.

Senator Forsey: Very good.

The Chairman: Does clause 12 carry?

Hon. Senators: Carried.

The Chairman: Shall clause 13(1) carry?

Hon. Senators: Carried.

The Chairman: Shall clause 13(2) carry?

Hon. Senators: Carried.

The Chairman: Shall clause 13(3) carry?

Hon. Senators: Carried.

The Chairman: Shall clause 13(4) carry?

Hon. Senators: Carried.

The Chairman: Shall clause 13(5) carry?

Hon. Senators: Carried.

The Chairman: Shall clause 13(6) carry?

Senator Forsey: This raises, I think, a question I referred to before, which I think comes up again under clause 17(3), does it not? Clause 13(6) reads:

> A decision of the Court pursuant to an appeal made under subsection (5) is, subject to section 18 —

which I think is not relevant to my question at the moment. The clause continues, "... final and conclusive ...". The court is the Trial Division of the Federal Court.

The Chairman: So you are saying that this act provides for no appeal beyond the Trial Division of the Federal Court?

Senator Forsey: Yes, and we wondered why exactly that was in there?

Mr. Levy: I might start by saying that under the present Canadian Citizenship Act, that is the existing law; the Trial Division of the Federal Court makes the final decision. It is called the Citizenship Appeal Court in the Canadian Citizenship Act but, in fact, it is the Trial Division of the Federal Court. Section 35 of the Canadian Citizenship Act provides in the same language that a decision confirming a decision of the court of appeal is final and conclusive. That constitutes the Federal Court-Trial Division as the final court of appeal from the citizenship judge.

Now, there is an interesting twist in the bill. The minister has discretion under the present Canadian Citizenship Act and even if the Trial Division of the Federal Court, called the Citizenship Appeal Court, decides that that person is a right and proper person to be granted citizenship, nevertheless it rests in the ministerial discretion and he may, if he wishes to do so, ignore it, perhaps at his political peril. However, under the bill that decision will be final and the minister will be bound by it, as well as the appliclant, who is bound by it now, because under the present law the minister could not grant citizenship if the court did not find that person to be a proper person. In other words, his discretion is kind of negative, so the appeal court could say they think he should, and the minister may say he does not agree. Under the bill the minister will have no choice but to agree.

Now, why do we cut it off there? These are basically findings of fact; not of law. They will be decisions as to whether on the facts he has residence and so on and so forth, and appeal courts deal usually with questions of law, or questions of mixed fact and law, which really are situations in which the facts have become so complex or tied in with the law that the appeal court will look at it. Usually appeal courts do not interfere with the trial judge's decisions on the facts. The applicant will be given a trial *de nova* before the Federal Court judge because the citizenship judges are not real judges, if I can use that expression. We felt that we should continue the present policy and not burden the courts of appeal, which are greatly over-worked at the moment, with questions of whether or not someone had the proper residence in Canada, or a proper knowledge of the country, or a proper knowledge of the language, or whether or not that person had been convicted of an indictable offence, which means he has a criminal record.

So, it was felt that there was no need to give a further appeal beyond the judgment of a Federal Court judge, which is obviously not the judgment of a bureaucrat or the citizenship judge, and that since a person may reapply at any time he feels ready, there would be no point in clogging the appeal courts with applications.

One might rest assured that the appeal to the Federal Court-Trial Division is a relatively inexpensive procedure, because many times the applicant appears without a lawyer and judges conduct the hearings fairly informally. If we get into a situation where we provide a further appeal, it will result in one law for the rich and one law for the poor, because if I as a wealthy applicant am not satisfied with a decision of the Trial Division of the Federal Court, I can appeal to the court of appeal or the Supreme Court of Canada, because money is no object.

On the other hand, it has a very beneficial effect as well for the applicant, because if we bureaucrats are not satisfied with the decision of the trial judge, it costs the Crown very little to appeal. But we cannot either, so it cuts both ways.

The Chairman: And, of course, this court is not dealing with any of his rights as a landed immigrant. It is just a question of whether or not he qualifies.

Mr. Levy: We have very good and valid reasons for doing this. It would protect, I think, in the long run, because we find that decisions of the Federal Court are generally favourable to applicants. I can tell you from experience that judges really try hard to help the applicant. There have been a few cases where we have not been too happy with decisions, but we have lived with them. If we cannot appeal from them, we will have to accept them. Right now it is a question of living with them, because the minister has discretion. We will have to live with them. We will not be able to drag these people to the court of appeal or the Supreme Court of Canada because of some fine point of law and, in effect, put them to great expense.

The Chairman: Shall subclause (6) carry?

Hon. Senators: Carried.

The Chairman: Clause 13 therefore carries.

Clause 14. Shall subclause (1) carry?

Hon. Senators: Carried.

The Chairman: Shall subclause (2) carry?

Hon. Senators: Carried.

The Chairman: Clause 14 carries.

Shall clause 15 carry?

Hon. Senators: Carried.

The Chairman: Shall clause 16 carry?

Hon. Senators: Carried.

The Chairman: Shall clause 17(1) carry?

Hon. Senators: Carried.

The Chairman: Shall clause 17(2) carry?

Hon. Senators: Carried.

The Chairman: Shall clause 17(3) carry?

Hon. Senators: Carried.

The Chairman: Clause 17 carries.

Clause 18. Shall clause 18(1) carry?

Senator Forsey: Mr. Chairman, this declaration would pretty clearly not be, on the government's showing, a statutory instrument. It appears to confer rather wide powers, bu mere declaration, upon the Governor in Council—power, in effect, to render a person a non-person. I cannot help wondering whether there ought not be some kind of safeguard against abuses of such wide power, but it doesn't seem to be there.

Senator Rowe: Is it a new clause?

Senator Forsey: I don't know. I haven't looked at the present act to see, I am sorry to say. It is very remiss of me.

Mr. Nichols: Yes, it is a new clause. Again, I will let Mr. Levy deal with it, but I shall say a few words on the handling of security generally. The present act does not mention the word. You cannot find the word "security" in the present act. Security is a very tricky and unhappy business. The minister is not happy with it, and we are not happy with it. No one is happy with it. The way that security cases are handled under the present act is very simple. The minister, because the granting of citizenship in all cases is a discretionary act, simply withholds the grant. He does not exercise his discretion in favour of granting citizenship. The applicant is not told why. We have become quite expert at writing letters which say nothing. It is an extremely unhappy kind of business.

As I am sure honourable senators know, there was a royal commission in 1969 which recommended the establishment of a review board to deal with all matters of security as it relates to government. They wanted to include immigration, citizenship security and the checking of security to do with the public service. Everyone thought that was fine, and indeed the government has continued to work on the establishment of such a body in all those intervening years, but they have not yet succeeded.

The great foundering rock is the matter of the revelation of sources. Canada does not have an information-gathering agency abroad, and therefore relies on information provided to us by friendly powers. Those countries, have made it very clear to Canada that they provide such information, in effect, on condition, and the condition is that the sources will not be revealed. So I think everyone would like to set up some kind of review procedure, and some would like to deal with the matter of natural justice. No one has yet devised a way to do that without, at least by implication, revealing sources.

So when drafting the bill, all we could do was to take the unsatisfactory practice that exists and improve it to the extent possible. So what we have done is, first, label what we are doing clearly as security. We have elevated the decision from a discretionary act on the part of the minister to the Governor in Council, and for the first time the refused applicant will be told privately why he has been refused. In other words, he will not be given reasons which might reveal sources, but he will at least be told, "You have been refused on the grounds of security."

The Chairman: Or "You have been refused pursuant to clause 18."

Mr. Nichols: That would be the line.

Senator Rowe: Is that "telling" obligatory on the part of the government?

Mr. Nichols: I do not know if the words make it that way or not, but certainly it is our intention to do so. But privately, if the individual wishes to reveal to the world that he has been refused on security grounds, that is his business. He may do that. We will not. We will simply tell him, "You have been refused on security grounds." In short, what is in section 18 is a considerable improvement over the very unsatisfactory methods now used, and is, in the opinion of the government, as far as they can go at this time.

The minister has said publicly that if the device recommended by the royal commission, or some other device, can be worked out, he would be the first to propose an amendment to the act, to use such a procedure.

Senator Forsey: In the first place, there is nothing here that requires you to inform the person, is there? That would be merely your own intention.

Mr. Nichols: That is right.

Mr. Levy: The refusal would have to be made in accordance with a statutory provision, of course, and the statutory provision is in subclause (18)(1), which requires that the Governor in Council declare "that to do so would be prejudicial to the security of Canada or contrary to public order in Canada."

So even if the language of the public statute were followed exactly, the person receiving the notice would have his choice. He could determine whether or not he is being refused because he is considered a security risk or a public order risk, with "public order" generally meaning criminal affairs.

At this point, I have serious doubts that the individual involved would not really know. In any event, if we limited ourselves to the strict use of the language of the statute and did not set out that the person was being refused as a security risk or as a public order risk, but said both, I do not think he would suffer for lack of knowledge in that sense.

Senator Forsey: I am sorry, I found that a little difficult to follow. He applies for citizenship and, presumably, goes before a citizenship judge. Is that right?

Mr. Levy: That is right.

Senator Forsey: Then the refusal is communicated to him how?

Mr. Levy: He would have to be advised.

Senator Forsey: By whom? By the citizenship judge?

Mr. Levy: I am not exactly sure at the moment how it would be handled administratively, but there has to be consideration of the matter by the Governor in Council and someone has to tell the individual that he is being refused under section 18(1).

Presumably, the regulations could deal with who was to do that. In all likelihood, probably the best person would be the registrar, because it would be a standard type

notice. When I say "standard", I do not mean that it would happen all the time, but simply that we are not going to say he is being refused because he is a member of a political party whose interests are inimical to those of the country, or that we discovered he wanted to blow up the Parliament Buildings last week. The letter would simply say that he is a security risk, and is being refused citizenship as such. So it would not matter who sent it to him.

Senator Forsey: Or that he is being refused under section 18(1). I still find that there seems to be no guarantee that the unfortunate blighter will actually get the information. That appears to be a matter that is left rather in the air. Mr. Levy says that it might be provided for by regulation, but it might not be provided for by regulation. There is no guarantee there that I can see.

The Chairman: As part of this same problem, Senator Forsey, may I interject a question?

It states that such an individual shall not be granted citizenship. An individual appears before a citizenship court, initially, and is awarded his citizenship, but that is not the actual status of citizenship. He has to get a document signed by the minister.

Mr. Nichols: That is right.

The Chairman: For the sake of argument, let us say he goes through the appeal procedure to the Federal Court, and the Federal Court, in turn, says he may be a citizen, that is still not the granting of the status of citizenship, is it? In other words, notwithstanding that the court awards him his citizenship, he still has to get a document signed by the minister.

Mr. Levy: Yes, and he has to take the oath.

The Chairman: Yes. So the advice to him that he is being denied citizenship as a security risk would not necessarily be given by the judge in the citizenship court, or by the Federal Court, but after all of that.

Mr. Levy: But in fact there are time limits for the performance —

The Chairman: I know the act says that the minister shall grant citizenship. Let's say, for the sake of argument, that the minister shall grant citizenship within a month after the court has ruled, and he does not do so. Instead, he writes the applicant a letter setting out that he is not being granted citizenship under section 18(1).

It seems to me, Senator Forsey, that if he did not say why, namely, under section 18(1), and as he has no discretion any more, the applicant—again, assuming he was not told that it was under section 18(1)—could bring a writ of mandamus and demand his certificate.

Mr. Levy: Exactly.

The Chairman: Is that not the answer?

Senator Forsey: Now I have my answer.

The Chairman: Somebody has to tell him, or he will simply bring a mandamus application before the courts.

Senator Forsey: That is what I wanted to make clear.

Mr. Levy: That is quite correct.

The Chairman: I just made that up as I went along, but it seems to me that would be the answer.

Senator Forsey: It sounds perfectly sensible and right to my non-legal mind, and perhaps if I had thought about it more I might have thought up that one myself.

The Chairman: I think that is the sequence of events.

Mr. Levy: If he qualifies otherwise and he does not get it, the first thing he will do is bring a mandamus application. So the minister cannot simply do nothing; he has to do something.

Senator Rowe: But this does in effect give the government the right to refuse anyone either on the ground that he or she is a security risk or on the ground that he or she is a risk to the public order in Canada, and no further explanation need be made.

The Chairman: That is right.

Senator Rowe: And there is no appeal from that.

The Chairman: That is right.

Senator Rowe: I am wondering, Mr. Chairman, whether our witnesses today appeared before the House of Commons committee on this bill.

Mr. Nichols: Yes.

Senator Rowe: I was wondering what the reaction of the members of the committee of the other place was to this particular clause. Did they raise some implied criticisms, as we are doing here?

Mr. Nichols: There was considerable discussion on this clause. As I recall it, the discussion spanned two whole meetings of the committee.

Senator Rowe: We obviously have to have something of this nature. We do not want all of the Arafats of the world coming into Canada. On the other hand, we have to be realistic about it and accept the fact that this does give dictatorial powers to the government.

Mr. Levy: If I may say so, there is a somewhat similar provision in the Immigration Appeal Board Act, except in that case the minister must certify.

Senator Forsey: That is the next point I was coming to. The minister must certify. We had a discussion on this, as I recall, when that recent special amendment was made to the Immigration Act to provide for security for the Olympics and the Habitat Conference. We had quite a discussion of that in another committee. I do not know how much we succeeded in getting in. I do not think we succeeded in getting any particular amendment. There is, in another part of the Immigration Act, as I recall it, a provision that the minister must certify, and some of us said that without asking the minister to reveal his source, there ought to be a personal certificate by the minister, or in one case, two ministers, the Solicitor General and the minister of the department, that they have information from a police officer —

The Chairman: I think the argument partly centred on the point, Senator Forsey, that the minister should say in the certificate "I have looked at the evidence". In other words, without saying what it was, he should state that he had examined it and therefore certifies etc., as opposed to just certifying without examining the evidence.

Mr. Levy: This one, of course, is collegial. It is the cabinet that decides. We tried to elevate it.

The Chairman: I think it is elevated as high as it can go.

Senator Forsey: Another question I was going to ask had to do with the words "or contrary to public order". That seems to me to introduce a fresh consideration, apart from security. I am perhaps a little bit leery of some of these things because in my past career I had occasion to discover, in certain instances, that the RCMP, for example, got rather confused about who were subversive characters and who weren't. I remember when I was working in the Montreal Civil Liberties Union that we got very curious emanations from the RCMP, about which I wrote the then Minister of Justice in very strong terms.

There is room for a great deal of discretion, it seems to me, in the words "or contrary to public order". What is the precise reason for that? What do they contemplate? Does this involve foreign governments and their reports and so on? Heaven knows, I have no desire to protect people like the FLQ, but it is always possible that people can get confused about this and say: "This blighter is one of the FLQ crowd" and he may be a person of what I would regard as deplorable opinions, but of no danger to the public at all.

Mr. Levy: The decision, of course, it must be remembered, will be taken by the Cabinet and not by a police officer. Public order, from my understanding, would deal with situations such as organized crime, and not with things which are commonly termed security. That is my understanding of the intention of that provision.

Senator Forsey: Yes, but you say the Cabinet would decide.

Mr. Levy: Terrorism, sir.

Senator Forsey: Yes, the Cabinet would decide.

Mr. Levy: Yes, but if it is terrorism, surely —

The Chairman: It is security, surely, if it is terrorism.

Mr. Levy: It might not be; if a group of terrorists come to this country to do in certain people here, they may have no intention of trying to overthrow the democratic government, or the parliamentary system, but only to deal with certain individuals. So it would be difficult to say that that would be prejudicial to the security of Canada, because if all the people who believe in restoring the monarchy in France, if I can take an example out of my head, were assassinated by those who believe there should be a left wing republic in France, this would be nothing to do with who holds power in this country and it would not be a security case. On the other hand, we would not think it would be very good for the public order if people went around with guns assassinating other people.

Senator Rowe: Surely those people should not be in Canada at all and, rather than considering granting them citizenship, we should be considering getting them out of Canada.

The Chairman: That falls under the Immigration Act.

Senator Rowe: They should be refused citizenship rights on the grounds that they are menaces and prejudicial to public order. Then, surely, they can be expelled from Canada completely and the whole situation would not arise.

Mr. Levy: Of course, the whole answer is that the Immigration Department will never be able to deport them if we make them citizens. That is another act.

Senator Rowe: But where is the hen and where is the egg? I guess it is a *fait accompli* in any case.

Mr. Levy: Your point is quite correct; they should never have got in in the first place, but sometimes we do not know what they are until they are here.

Senator Rowe: That is quite right, but couldn't we get rid of them? They may have been here for six months, or six years for that matter, but have not become citizens. Surely we could get rid of them?

Mr. Levy: Under the Immigration Act.

The Chairman: This is if a person were to slip through the immigration net and then come forward under this particular act.

Senator Rowe: Mr. Chairman, I am as anxious as anyone, of course, to preserve our way of life and protect ourselves from predators of all kinds. However, I still do not like clause 18(1); I see that implicit in it is the possibility of all kinds of arbitrary action and I am not impressed by the fact that it is the executive council which will make the decision. I was a member of an executive council for a great many years and I know what happens at them. Out of 25, or however many members there may be, it is only needed for one to be prejudiced, in which case his colleagues might go along with his wishes.

Mr. Levy: The third subclause provides that the declaration ceases to have effect two years after the date on which it was made. So even a person who has been barred by certain of those security declarations may apply again two years later, which will require the executive to go through the whole process again, conduct a new investigation and consider the matter in Canada again. We consider that that would be somewhat of a check on untrammelled authority.

Senator Forsey: I have never been a member of even a provincial cabinet, like Senator Rowe, but I think I see his point all right. I also have a feeling that Cabinet, being over-burdened with work, is very likely to take the word of the minister reporting who, in turn, will take the word of his officials. I come from a family of civil servants and far be it from me to suggest that officials are questionable characters, but they can make mistakes and, like everybody else, can have inarticulate major premises in their minds—I hesitate to use the word prejudices—and there is always the possibility of cases of mistaken identity and that sort of thing, which can be very difficult indeed. I know of one case of mistaken identity where the poor blighter had an awful time establishing he was not the Aurèle Seguin who was pursued for certain purposes. He was a very different Aurèle Seguin; I knew the man very well. This did not involve judicial proceedings, but ordinary legal proceedings; he was being dunned for debts that he had never heard of.

I myself have had a case of mistaken identity, where the CNR billed me over and over again for the debts of Mr. John Forsey in Corner Brook, who was undoubtedly related to me in some indirect and tribal way. He had run up, apparently, considerable debts, or what I considered to be considerable debts, of about $300 with the CNR. I kept writing and saying: You made a mistake; you made a mistake". I suppose it got into the computer: "All hope

abandon ye who enter here". I finally said: "I've explained this to you three times and it has had no effect. If you send this thing to me again I shall write to Donald Gordon, whom I know". I did and that was the only way I got out of it. Donald settled the thing promptly, with a delightful letter I might add, now in the Public Archives, which ended: "And just think, Eugene, how awful it would be if anybody confused Walter Gordon with yours very sincerely, Donald."

These are frivolous examples, perhaps, but I am worried about the possibility of thing like mistaken identity. The computers come into this thing, too. Something may have got into the computer and once things get into the computer it's almost impossible to get them out again short of most extraordinary exertions.

The Chairman: I suppose, Senator Forsey, we really have to come down to the fact that as a committee and as legislators we eventually all have these concerns. I have a concern about this, because it includes renunciation of citizenship. My concern would be that, having become an American citizen a person may want to renounce his Canadian citizenship, possibly for business, taxation or other reasons which make it to his disadvantage to have dual citizenship. This is one of the holds that these Eastern European countries have on these people who, although having Canadian citizenship, return there and are arrested. There are most unfortunate cases of that. I would hate to think that I was having an argument with the Income Tax Department and would therefore be considered prejudicial to the public order of Canada one of these years and I would not be able to renounce my citizenship. However, when all that is said and done, I suppose we come around to having to say to ourselves, at some point in the violent world in which we live today, that the Governor in Council or the Cabinet of our country in extraordinary circumstances must be in a position legally to make these judgments. We really then come down to this point; do they make them frivolously, or negligently, or in batches? I do not think that is probably the way they do make them, and I believe that is the only way in which I can answer my concern and the same concern you have, Senator Rowe.

Is there further discussion on clause 18? Shall clause 18(1) carry?

Hon. senators: Carried.

The Chairman: Clause 18(2).

Senator Forsey: Here again, of course, you really have some difficulty, especially if it is a question of mistaken identity. The poor blighter cannot even appeal. I just hope they will be careful about what they do.

The Chairman: On "mistaken identity"—I must not get too much into this debate—but the recent amendments to the Immigration Act are rather fresh in my mind. There we were dealing with an irrevocable act of the minister with such a certificate, in that a man had gone from the country.

Here he could apply again.

Senator Forsey: Two years.

The Chairman: This does not deport him. This does not take away any of his other rights in Canada and he has every avenue open to him to expose the fact that it is a mistaken identity. So it is really a good deal less significant to me than the Immigration Act, because of the expulsion provision.

Mr. Levy: We really gave a great deal of agonizing thought to this, many times. All we can really say in its defence, honourable senators, is that it is the least bad we could come up with in a bad world. It was the least offensive provision. We tried to do the best we could in the circumstances. We do not say it is perfect or that it is wonderful.

The Chairman: Shall subclause 2 carry?

Hon. Senators: Carried.

The Chairman: Shall clause 18(3) carry?

Hon. Senators: Carried.

The Chairman: Shall clause 18(4) carry?

Hon. Senators: Carried.

The Chairman: Clause 18 carries.

Shall clause 19 carry? Clause 19 carries.

Shall clause 20(1) carry?

Senator Forsey: Mr. Chairman, it is under subclause 1(b) that I have a question. I am worried about "while he is charged with." What occurs to me there is that there is sometimes a very long period during which somebody is being charged with something. They may take a very long time to get the thing straightened out and ultimately he is found not guilty, and all this long period is then involved.

Mr. Levy: On the other hand, this is something that we gave a great deal of consideration to. You get into a situation where someone is otherwise qualified, because he has not been convicted at the moment, but he is being charged and tried. If we did not have this clause in there, we could find ourselves in the somewhat ridiculous position of someone being brought in irons from the nearest jail where he is being held for murder, but because he has not yet been convicted, he has the statutory right to be a citizen. So we say here that he can wait until he gets himself straightened out with the criminal authorities.

Senator Forsey: Mightn't you have something protecting him in case he is ultimately found not guilty?

Mr. Levy: He can become a citizen immediately. This time factor does not count against him. He will still have had residence anyway. He will have acquired residence before he applied.

Senator Forsey: He simply can't get the certificate while he is being charged.

Mr. Levy: But we do not want someone taking the oath while he is in irons.

Senator Forsey: I thought it might embody something of the principle of the late judge Sicotte who when an accused was brought before him and pleaded not guilty, would look down over his glasses, shake his head and say "If you were not guilty you would not be here"; which simplifies matters greatly.

Mr. Levy: On the other hand, these are indictable offences which will be tried by higher courts. They are not traffic cases.

Senator Forsey: Some of my cases merely reveal my ignorance, but I would rather be sure than sorry.

The Chairman: I note with interest that the safeguard is only sought by the Crown in this bill relative to indictable offences. There are some very serious offences of less than an indictable nature.

Shall subclause 1 carry?

Hon. Senators: Carried.

The Chairman: Shall clause 20(2) carry?

Hon. Senators: Carried.

The Chairman: Clause 20 carries.

Shall clause 21 carry?

Senator Forsey: Here again the bad penny turns up. This appears to me to confer an enormous power of subdelegation, which is one thing that has worried us very much in the Committee on Regulations and Other Statutory Instruments. When I raised this matter in the Senate, Senator Connolly replied that it merely had to do with the matter of not requiring proof of the authenticity of the authorization.

But I am unable to accept that without further explanation. The marginal note says:

> Delegation of authority.

It appears to me quite clear—this may again be my ignorance of the law—that there is a delegation of authority, a very wide and sweeping one, provided for here. It says:

> Anything that is required to be done or that may be done by the Minister under this Act or the Regulations may be done on his behalf . . .

If you stop there, it would clearly be a wide delegation of authority, and a very wide delegation of authority at that.

I cannot see that the subsequent words "without proof of the authenticity" limit the delegation which is granted.

The Chairman: There are two things. One is the delegation of authority, and the other is that we do not have to prove the authenticity of the authorization.

Senator Forsey: I hesitate to question the opinion of so eminent a lawyer as Senator Connolly. I reflected carefully on this afterwards and read it again and again, but it still seems to me that there may be really two things in there, the delegation and the waiving of any proof and the authenticity of the authorization.

The Chairman: Eminent lawyers are also defence counsels.

Mr. Levy: Would you like me to speak to that?

Senator Forsey: I should be very glad.

Mr. Levy: There are two things in here. All clause 21 does is to codify the common law right of the minister to delegate to officials, because it is clear that the minister cannot do everything himself. There have been unnumerable decisions in Canadian and English courts, and the House of Lords. I do not have the citations in my briefcase, but lawyers do not question them, that since it is impossible for ministers to do everything in statutes that say "the minister shall" or "the minister may," the minister has to delegate.

In fact, this provision is a check on informal delegation or "after the fact" justification. There is a similar provision in either section 26, 27 or 28 of the Financial Administration Act—because it requires the delegation to be in writing.

Your main concern, Senator Forsey, is subdelegation. As a matter of law, this clause does not permit subdelegation and there is nothing in this bill that does, because there is a legal maxim which is applicable in all cases and which would require the statutory provision, which this bill does not have, that, if my Latin is correct, *delegatus non potest delegare,* which translated means that a delegate cannot delegate.

Senator Forsey: I am very familiar with that.

Mr. Levy: I thought you would be. Therefore, what the minister must do is specify in writing all those officials to whom he is delegating certain authorities. This is common under the Financial Administration Act where a minister issues a delegation of authorities, and the officials are listed as to what they can do. The delegation is signed by the minister, who is then responsible for the document. When ministers change, a new delegation is completed.

Because of that, you cannot have the minister delegating to Mr. Nichols who in turn delegates to me and I ask my secretary to do it. Only those persons who are specifically authorized by the minister may perform functions, and a minister, of course, is politically responsible, presumably, if he makes silly delegations.

The second branch of this clause, which is the one that Senator Connolly referred to, simply relieves the person to whom authority has been delegated of proving that it is in fact the signature of the minister.

Senator Forsey: Yes. I am not worried about that.

Mr. Levy: Let me just say, there is no authority to sub-delegate. The minister must delegate specifically, and this can be done under the common law. Now we require it to be in writing.

Senator Carter: I wonder if I might ask a question at this point? What is the significance of the word "authenticity" in that clause? Does "authenticity" mean that what the minister has done shall be within the law, or is it to authenticate the fact that the minister has delegated the authority?

Mr. Levy: This would refer to the authenticity of the authorization; that in fact it is a proper authorization signed by the minister and not a forgery prepared by me. Of course, if I commit forgery, they can throw me in jail, if they catch me.

Senator Carter: But if the minister authorized something that was not in the act, would that be authentic?

Mr. Levy: No. You may take it that it has to be within the act. The minister can only authorize what is contained in the act.

Senator Forsey: As I understand that part of the clause, it simply says that if Mr. Nichols, for example, produces a document signed by the minister, I cannot force him to go to court to prove that the minister signed it. It is taken to be authentic. Of course, if it turns out to be a forgery, then I can take proceedings under the ordinary law, presumably, or if it turned out that the minister had signed an authorization to Mr. Nichols, or you, or someone else, to do something that is not in accordance with the act, that, too, would be subject to action.

Mr. Levy: Exactly. If I could give a simple example, if the minister were to sign an authority to Mr. Nichols to make delegations under section 18 on the ground of security, it would take no time at all for you to take him to court, because he obviously has no authority to do so.

Senator Forsey: But not on the ground that the document itself was not genuine, but simply that he exceeded his power and the thing was invalid.

Mr. Levy: Yes.

Senator Forsey: I am still not satisfied about this business of delegation and subdelegation. The legal question involved appears to be a very involved one, indeed. We have had some discussion of it, and we have had Mr. Driedger's book quoted to us, and we are not satisfied at all with Mr. Driedger's *ex cathedra* pronouncements on the subject.

What worries me here is "Anything that is required to be done or that may be done by the minister under this Act or the regulations may be done ... by any person authorized by the Minister in writing to act on his behalf."

> In clause 26, for example, we have: The Governor in Council may make regulations —

And then (h):

> (h) respecting the taking of the oath of citizenship; —

As the word "respecting" is interpreted by the law officers of the crown, it confers powers which Hitler, Mussolini or Ghengis Khan might have envied. In our experience, it is taken to include almost anything. It could be interpreted, judging by our experience, as meaning that the Governor in Council could pass a regulation simply dispensing with the oath of citizenship, or changing the oath of citizenship in any way that the Governor in Council saw fit, and that this power could be conferred upon, in the picturesque language of our counsel, the groom of the back stairs. The minister could then delegate and say, "Under the regulations, the oath of citizenship can be changed to read 'The President of the Republic of Canada'," or what have you, and "I hereby authorize Mr. 'X' to do anything he likes about changing the oath of citizenship," because it says "respecting the oath of citizenship."

Mr. Levy: I would prefer, if you would agree, to deal with those points during the clause-by-clause study. We did do some homework on those two points. All I can say is that the law officers of the crown are of the view that clause 21 does not authorize any subdelegation.

The Senate has its own Law Clerk and perhaps the question could be put to him. I can only reiterate what I said earlier, and you more or less indicated that you are not particularly happy with the view of the Department of Justice on it.

The Chairman: Senator Rowe.

Senator Rowe: Is it your hope, Mr. Chairman, to complete examination of this bill today?

The Chairman: I should think that is unlikely, Senator Rowe. We cannot sit this afternoon because the Senate will be sitting. We will therefore reconvene Tuesday morning. We can make a decision at the end of this morning's meeting as to whether or not we will invite the minister, or continue with clause-by-clause study. I do not think we will be through our clause-by-clause study by the time we adjourn this morning, so I would think we would continue that Tuesday morning.

Senator Rowe: My reason for raising the matter is that some of us have an obligation in connection with the visit of the New Zealand Parliamentary Delegation.

The Chairman: I understand you have to leave, Senator Rowe, and I quite understand, but I think we will press on as long as we have others who are available.

Senator Rowe: Very well.

The Chairman: Senator Forsey.

Senator Forsey: I am sorry to delay the committee in this way, but I am really worried about some of these things, and we have come across so many instances where the officials are asserting the dispensing power which cost James II his throne. The trouble is that they don't seem ever to have heard of James II or the Bill of Rights of 1689 or the glorious revolution of 1688. In fact, in one case where we cited the Bill of Rights of 1689, a series of legal eagles in various departments called our counsel and said, "We cannot find this about the dispensing power. What is the Bill of Rights of 1689? Is it Mr. Diefenbaker's Bill of Rights?" And our counsel said, "No, it is not."

"Is it the American Bill of Rights?"

"No, it is not."

Well, he said, "What is it?" and our counsel replied, "The English Bill of Rights of 1689."

"What's that?"

"Well, it is the Bill of Rights that followed the glorious revolution of 1688."

"What revolution was that?" And our counsel and I had to be brought around with restoratives after that.

Then we had the Department of Justice arguing that the Bill of Rights of 1689 was no part of the law of Canada. We argued strenuously with them and they eventually said, well no, they couldn't actually dispense with the provisions of statutes, but they could dispense with the provisions of regulations, so that where we had a regulation which said a certain category or class of persons—these were the Special Immigration Relief Regulations—could be exempted from such-and-such, they were entitled to pass a regulation exempting one Joseph Leblanc, and we said, "But Joseph Leblanc is not a category or class of persons," and they said, "Well, the Bill of Rights of 1689 is no part of the law of Canada so far as regulations are concerned."

We are still fighting them on that one. We are scared stiff of what the senior professor of constitutional law in this country, when I put some of this before him, described as these latter-day Stuarts. We object to James II being resuscitated, even in the form of some of our highly respected officials.

This is what worries me. I continue to be worried in spite of the explanations.

Mr. Levy: I think you will be satisfied, Senator Forsey, when we get to clauses 26 and 27, that the Governor in Council will have no power to change the requirement that it be taken, if your fears with respect to clause 21 have some basis in that. As I said before, it is the opinion of the law officers of the Crown that under clause 21 there will be no authority to subdelegate and, as I mentioned also, if you have some doubt about that, or you still are not

entirely convinced, the Senate has its own legal adviser here, who is not an adversary and whom you may consult.

The Chairman: I have a question directed to the same clause: I am quite, or somewhat, taken aback by Mr. Levy's opening remark a few minutes ago that clause 21 does nothing more than codify the common law right of the minister to delegate.

Senator Forsey: I was surprised by that, also.

The Chairman: Because let me simply say to you, and I don't think there are too many instances in this particular act, Mr. Levy, because you have taken most of the ministerial discretion out of it, but much was made on the immigration amendment bill we had before us on the very security question we were dealing with a few minutes ago by which this is elevated to the Cabinet. In that bill it involved the minister's signing the certificate and much was made of the fact that that minister was sure his predecessors were men who held offices of such responsibility and would not sign such a certificate lightly and so assured this committee. Now you are saying to me they do not have to; they can delegate it to anyone to sign the certificate.

Mr. Levy: It depends on the language of the statute. If the statute is silent, the courts have taken the position for many years that a minister cannot be expected to do everything.

The Chairman: He cannot run his whole department.

Mr. Levy: Exactly.

The Chairman: But if the act provides that the minister shall do something—that is my point. On my specific example you are saying, then, that in the Immigration Act—you are probably familiar with the section to which I refer —

Mr. Levy: Not really.

The Chairman: It is the same type of thing as your security provision which we discussed a moment ago, where the Governor in Council has to rule.

Mr. Levy: If I did imply that, that is my fault and I should not have done so. The courts have not said that ministers can delegate everything and perhaps I spoke too generally, because I was not thinking in those particular terms. The courts have said that the ministers may delegate administrative functions. Many statutes say "the minister may" or "the minister shall" and the courts have looked at the functions involved after the fact and they have decided that the minister should have delegated something, or should not have delegated it. I have no doubt in the case of the certificates under clause 21 of the Immigration Appeal Board that if there were not thousands, or many hundreds a year, the courts would want the ministers to look at them. On the other hand, I do not know what they would do if there were enormous numbers with which the minister simply could not possibly deal.

The Chairman: The point is that clause 21 gives him total authority to delegate every single one of his duties under this act and go off and forget it.

Senator Forsey: Or under the regulations.

Senator Carter: Yes, it is the regulations that worry us, even more than the act.

Mr. Levy: Well, the regulations have not surfaced yet, and when they do you will see them.

Senator Yuzyk: We hope to see them, but we do not always see them.

Mr. Levy: These you will see, sir.

Senator Forsey: You see, when we get them, this pretty well precludes us raising any question of *vires*. The regulations may provide that the minister may delegate something to an appointee, anyone he chooses, who can then go ahead and do all kinds of wonderful things under the regulations passed under clause 26.

Mr. Levy: Of course, it would depend on how much he has got to delegate. Perhaps Mr. Nichols could speak to that much better than I, because he is more familiar with the administrative side of it. I just do not see any great and wonderful powers being delegated under this clause.

The Chairman: If I could just return to my point on the subject of regulations, Senator Yuzyk, it may be arranged to bring what is perceived as the delegation forward. I am not bothered, because they are changed regularly from month to month, so I am only concerned with those sections in the act which authorize regulations. I do not pay any attention to the regulations, because they can be changed every month for the next 20 years. I am concerned that we go through this type of act and are given assurances. The minister by the statute can delegate every single one of his responsibilities under this section to, as you say, the janitor, and go off and pay no more attention to it. I would like to go through this act and see where it says "the minister shall", or "may", and just see every one of those cases in which we would be very happy to have him delegate all this authority. I understand that from the administration point of view the minister must have a very great departmental system.

Senator Forsey: Of course.

The Chairman: It is always because it is a special case. You assume then that the minister has got the time in his day to address his mind to these special cases, and you say he does not even need to bother.

Mr. Levy: We were thinking in terms of general administration; there is nothing special.

The Chairman: I know you have almost nothing special in this act, so I am not really criticizing your drafting of the act, so much as addressing my mind to a somewhat general problem which has come to focus as a result of your opening remarks. I refer back to the immigration bill with which we were dealing, where such a point was made that in these unusual circumstances a man in the position of responsibility of the minister would be, indeed, addressing his own mind to that particular problem. You say that under the common law he does not have to bother; he can delegate it if he so wishes.

Senator Carter: I would suggest that perhaps it would be wise to stand clause 21 until we finish discussing clause 26.

The Chairman: Very possibly we should adjourn shortly in any event.

Senator Forsey: Yes, I support Senator Carter's suggestion, especially because I think the law clerk of the Senate was perhaps about to give us the benefit of his wisdom.

Mr. R. L. du Plessis, Q.C., Law Clerk and Parliamentary Counsel: Mr. Chairman, you mentioned earlier that the minister had some authority on the question of security.

The Chairman: I was referring to the immigration bill. In this bill it is the Governor in Council.

Mr. du Plessis: That is right.

The Chairman: It is the minister, not the Governor in Council, who could give that certificate relative to security, which is a very rare, unusual thing where you are assured that the judgment of your senior elected official has been brought to bear on that particular unusual situation.

Mr. Levy: Of course, that does not arise here.

The Chairman: I know it does not, but you tell me that that is the law. Whether it is in that section or not, he does not have to do that.

Mr. Levy: Well, I tried to retract a bit of generalization that I was making in terms of this bill and I got somewhat out of context.

The Chairman: The nature of the situation would have to be considered and if it was the type of thing I am suggesting, he would, indeed, have to do it himself.

Mr. Levy: Yes, and when I referred to the courts having authorized this, I was thinking in terms of general administration and not in terms of security certificates.

The Chairman: The only reason I would say clause 21 is at all acceptable in this particular statute is that you happen to have given birth to a bill that does not give the minister any discretionary powers and, therefore, he can only delegate administrative powers. However, I would rather run through the bill and make sure that I am satisfied on that point.

Senator Forsey: Yes, I am inclined to think that it might be as well to stand this until we have looked at clause 26, because there is a long list of specific powers which are granted to the Governor in Council. When you read that with clause 21 it looks almost to my lay mind as if you might get a very considerable delegation, in fact. I do not know whether you could call it a subdelegation in law. I would not want to say. But it looks to me as if you might get an awful lot of very important decisions and changes in what is down here, apparently, in the hands of officials, for example, who, shall I say, though under the oath of citizenship, are of republican proclivities. I happen to dislike the idea of a republic, though I quite recognize that other people are entitled to take a different view; but if we want to decide that we are going to become a republic, I want that decision made by the Parliament of Canada, and not by some anonymous functionary in some particular department.

The Chairman: We are approaching the time when we should consider a luncheon recess, so this might be a good time to adjourn. We are obviously not going to finish this morning.

Would honourable senators agree with my view that it would be better to press on with our clause-by-clause study on Tuesday morning, with the officials here again, rather than have the minister come? I will advise the minister that he should hold himself available to come before the committee at the end of our clause-by-clause study if members of the committee should have questions outstanding at that time that they would like to ask him. I think that would be more sensible than having the minister come on Tuesday morning and start a general discussion in the midst of what we are doing now.

So we will proceed with our clause-by-clause study on Tuesday morning at 9.30, without the minister but with you gentlemen here.

Mr. Levy: Excuse me, Mr. Chairman. I believe you stood subclause 2(1) because Senator Forsey had some concerns about the definition of "court", and this related to the matter of appeals. I believe, if I am not mistaken, we have dealt with that, and I wonder if, before we adjourn, it would be possible to go back, and finish that, if that is your procedure.

The Chairman: It certainly would be. That is quite right. I think that subclause has been dealt with. Shall clause 2 carry?

Hon. Senators: Carried.

The Chairman: So we have carried everything. Is that correct? We have covered everything up to, but not including, clause 21. Did we decide that clause 21 should stand? We can continue the discussion a little.

Senator Forsey: That was Senator Carter's suggestion, which I supported.

The Chairman: Or should we continue, starting on Tuesday morning, with clause 21?

Senator Forsey: I thought the suggestion Senator Carter made was that we should stand clause 21 until we had looked at clause 26.

The Chairman: All right. So the record will show that we are standing clause 21, and that on Tuesday morning we will be commencing with clause 22.

On your behalf, honourable senators, I would like to thank the officials for coming this morning, and for their very helpful and lucid explanations and defences of their handiwork. We will look forward to seeing them again on Tuesday. We now stand adjourned.

The committee adjourned.

Ottawa, Tuesday, May 18, 1976

The Standing Senate Committee on Foreign Affairs, to which was referred Bill C-20, respecting citizenship, met this day at 9.30 a.m. to give consideration to the bill.

Senator George van Roggen (*Chairman*) in the Chair.

The Chairman: Honourable senators, at our last meeting we had progressed with Bill C-20, an act respecting citizenship, through clause 21. If I am correct, clauses 1 to 20, inclusive, were all adopted and we stood clause 21. We are now proceeding to clause 22.

Senator Laird: Excuse me, Mr. Chairman. Unfortunately I missed your last meeting. I was attending another committee, dealing with a fairly contentious bill, C-58. Did you carry clause 21? I have grave reservations about that clause.

The Chairman: No, we did not. I said we adopted clauses 1 to 20, inclusive, and we stood clause 21. I am now proposing that we proceed to consider clause 22.

Senator Laird: When are we going to deal with clause 21?

The Chairman: At the last meeting it was suggested that we come back to clause 21 when we get to clause 26.

Senator Laird: So that we get up more steam.

The Chairman: Yes. Shall clause 22 carry?

Senator Forsey: With respect to the schedule, it has been suggested that there is some discrepancy between the wording of the oath of allegiance and the oath or affirmation of citizenship, and I should like to have some information on that to make sure that the whole thing is quite clear in my mind and that the discrepancy is of no consequence.

Clause 39 contains the oath of allegiance, and that is the same as the oath of citizenship down to the words "Queen of Canada," but in the oath of citizenship the next words, "Her Heirs and Successors", have capital letters, with a comma after "Successors" which does not appear in the oath of allegiance.

Senator Croll: You have lost me. Say that again, would you?

Senator Forsey: The oath of allegiance in clause 39 and the oath or affirmation of citizenship in the schedule at the end are identical down to the words "Queen of Canada". Then follow the words, "her heirs and successors according to law," in the oath of allegiance, but in the oath of citizenship there is capitalization which does not appear in the oath of allegiance. Also, in the oath of citizenship there is a comma after "Successors" which does not appear in the oath of allegiance.

It has been suggested to me that under the oath of allegiance in clause 39 the words "according to law" qualify "heirs and successors," including therefore a republic if lawfully established, while in the oath of citizenship in the schedule the words "according to law" properly qualify the manner of bearing allegiance, and the indication is only of personal heirs and successors, kings and queens of Canada. I do not know whether there is any validity in that or not, but it has been suggested to me by my legal adviser that there is a difference there, and I would like the opinion of learned counsel on it.

The Chairman: I assume there is some reason for there being a difference between the two things. We might ask the witness to comment on that.

Senator Forsey: I had not noticed it myself, the capital letters or even the commas, though I am quite a great man for commas. I didn't think it made a particular difference in this case. However, I had some expert advice and I would like the other experts to set me right, one way or the other.

Mr. R. M. Nichols, Registrar, Citizenship Registration, Department of Secretary of State: Very simply, Mr. Chairman, the two oaths copy their predecessors. The punctuation and the capitalization in the oath and Oath of Allegiance Act as it is today and the Citizenship Act as it is today are different, and the two oaths we produced in Bill C-20 exactly copy their two predecessors; except, of course, for the change that was made being the addition of the words "Queen of Canada."

Senator Forsey: I am not concerned about the addition; that is another matter.

Mr. Nichols: It is punctuation and capitalization and they simply copy their forebears. I cannot give you the reasoning for the differences in the two oaths as they stand.

Senator Connolly (Ottawa West): The one in the schedule is a later draft—if you can call it a later draft—because it presumably was done at the time the Citizenship Act was enacted in 1946. I would assume that the traditional form is the form to be found in clause 39, with the words "heirs and successors" not capitalized and without a comma between the word "successors" and "according." Is there any reason why the citizenship oath should not go back to the older form?

Mr. Nichols: Probably not, senator. In drafting Bill C-20, Mr. Levy and I and a lot of other people, through the years, did not regard the capitalization or the punctuation as being of the relevance that Senator Forsey seems to find in it.

Senator Forsey: As my adviser seems to find in it.

Mr. Nichols: I say that in all honesty.

The Chairman: Did you focus on this difference?

Mr. Lewis Levy, Director of Legal Services, Department of Secretary of State: If I may say so, Mr. Chairman, we did not focus on it because at the time when the citizenship oath was revised by adding the words "Queen of Canada" the Department of Justice thought that, if they were bringing the citizenship oath into line with the Royal Style and Titles Act, they should do the same thing with the Oath of Allegiance Act which had not been brought up to date. They merely added "Queen of Canada" to each one and followed the previous form.

Since Senator Forsey raised the point during the second reading debate, all the lawyers here at the table and the Department of Justice draftsmen had a look at it and all are of the opinion, legally, that it does not make any difference. They both mean the same thing.

Senator Forsey: That would have been my personal opinion, but I hesitated because I had a legal opinion to the contrary. So, I thought I would raise the question. I am quite satisfied.

Mr. Levy: In any event, the present citizenship oath, which has the capital "H" and "S", has been in existence

since January 1, 1947, which is almost 30 years with the capital "H" and "S", and the other one with the small ones.

Senator Carter: I would like to ask Senator Forsey a question. I understood that the point you were making was that the placement of the comma in the schedule after "successors" meant that it would apply to a successor who might not be an heir. Therefore, implied in that is the possibility of a presidential form of government later on which would require allegiance.

Senator Forsey: The advice I got was that it was rather in clause 39 that the republic would come into it. I do not think, myself, it is of any importance. I did not dare let it go for fear there might be something in it but, personally, I was not impressed.

The Chairman: It would seem, Senator Forsey, that it is not an improvement that would warrant our amending the bill, if there were no further amendments.

Senator Forsey: I do not think it's worth bothering about.

The Chairman: If, in reporting the bill, we have amendments of substance, we could come back and include the correction of that at the same time.

Senator Forsey: I do not think that is of any consequence, myself, and that appears to be the prevailing legal opinion. I feel fortified in the earlier amateur opinion of my own.

Senator Laird: No counsel fees involved.

Senator Forsey: Isn't that fortunate for me!

Senator Laird: Yes.

Mr. Levy: May I say, Mr. Chairman, having heard the honourable senator on the national news last night, that there are certain subjects I would hesitate to tangle with him on.

Senator Forsey: What in the world was that?

Mr. Levy: You were discussing the constitutionality of the Anti-Inflation Act.

The Chairman: Shall clause 22 carry, subject to the agreement that, should we find that we are reporting the bill with amendment, we might come back to the form of the oath and correct that inconsistency between the two?

Hon. Senators: Carried.

The Chairman: Clause 23. Shall it also carry, subject to the same qualification?

Hon. Senators: Carried.

Senator Thompson: Could I just ask something, Mr. Chairman, on the question of regulations? Do you have to swear on the Bible? Is that one of the regulations?

The Chairman: There is provision to affirm as well.

Senator Thompson: I see. That is what I was really after, just in case there were some religious objections.

Senator Croll: If you happen to be Chinese, you can use a chicken.

Senator Forsey: I know of one case, in one department, where a Bible wasn't available and a Jewish member of the department had a Talmud and they were sworn on that.

Senator Croll: That was accepted when some were sworn in and, as a matter of fact, I was sworn in on that as a Cabinet minister.

The Chairman: Shall clause 24, subclause (1) carry?

Senator Laird: Yes, that one makes sense.

Hon. Senators: Carried.

The Chairman: Shall clause 24, subclause (2) carry?

Senator Thompson: Mr. Chairman, could "renunciation" be clarified for me?

The Chairman: Well, we had a substantial amount of evidence on that in our last hearing, Senator Thompson. In certain cases, where people have dual citizenship, their Canadian citizenship should not terminate automatically but if they wish it terminated they may apply to have it terminated, in which case the evidence was it would be terminated automatically, in most cases. That would be when you would apply the certificate of renunciation.

Mr. Nichols: That is right. The person renouncing citizenship usually does so for a reason, and they need some kind of documentation to prove that they have so done, so, a certificate is provided to that effect.

Senator Thompson: At the last sitting I made reference to the fact that there was a time when we had a renunciation of a former homeland, which you said was not really valid because there are many countries which do not accept this.

Mr. Nichols: We are talking here of renunciation of your Canadian citizenship.

The Chairman: Shall clause 24 carry?

Hon. Senators: Carried.

The Chairman: Clause 25, subclause (1). Does subclause (1) carry?

Senator Flynn: You mean there are no qualification in order to be appointed as a citizenship judge?

Senator Macnaughton: Was there an answer to that question?

Mr. Nichols: That is correct. These are not judges appointed under the Judges Act and there is no list of qualifications for them.

Senator Flynn: At least of senators they ask for qualifications.

Senator Laird: The Secretary of State appoints them.

Senator Flynn: I suppose he has to be 21 years of age, in any event, or even 18?

Mr. Nichols: It could be 18.

The Chairman: It could be 18, I suppose.

Senator Macnaughton: And solvent, and a few other details.

The Chairman: I suppose a citizen could be ten years of age.

Mr. Nichols: I am sure that Mr. Levy can tell me twelve good reasons why they would have to be an adult.

Mr. Levy: I have never considered it from a legal point of view, but I do not think it would be politically wise for the minister to appoint a 12-year old as a citizenship judge.

Senator Flynn: Is there any term of office?

Mr. Nichols: The Order in Council is normally five years.

Senator Flynn: But the appointment could be for an indefinite period.

Mr. Nichols: It could be. There have been indeterminate appointments.

Senator Flynn: And there is no age limit.

Mr. Nichols: The age limit is 65. The Public Service Superannuation Act applies to these people. The normal civil service working conditions apply to these people and that includes the retirement age.

Senator Flynn: That is provided in the Superannuation Act, is it?

Mr. Levy: It is in the schedule. The Public Service Superannuation Act is rather complex, but there is machinery in there for declaring certain portions of the public service to be in the act and the present citizenship courts are in it and the judges will automatically come under the superannuation act.

Senator Flynn: You have no knowledge of any citizenship judges being older than 65?

Mr. Nichols: There have been yearly extensions.

Senator Flynn: As provided in the civil service legislation?

Mr. Nichols: Yes.

Senator Thompson: Have any citizenship judges been appointed who have had a background in other citizenship branches or the citizenship registration department?

Senator Laird: I can think of one, offhand: Mrs. Rideout.

Mr. Nichols: She was a Member of Parliament. There have been a number of ex-members of Parliament.

Senator Laird: Does that automatically make them experts on citizenship?

Mr. Nichols: I believe the question was with respect to people associated with the Citizenship Act, and the answer is no.

Senator Croll: She is about the best one they have.

Senator Laird: I don't doubt that.

Senator Thompson: I think something that should be considered is the idea that people, who have worked under this act and who have also worked within the department planning procedures might be considered for appointment. It seems to me that they are a forgotten group when it comes to getting a position of prestige at some time later in their existence.

Mr. Nichols: That has been considered from time to time. My personal view is that a civil servant should not expect an order in council appointment at the termination of his career as some kind of reward. That is purely a personal view. I do not hold with the idea at all, but legally there is nothing to prevent it.

Senator Croll: I have never heard of civil servant being so appointed. Have there been any appointed?

Mr. Nichols: It is a fairly complex area, but there are a number of civil servants—a small number, about six at the moment—who are civil servants and who also hold appointments as courts. It is purely an emergency kind of power.

Senator Croll: In Toronto?

Mr. Nichols: In various places. If the judge happens to break his leg on the way to court and there are 65 people there, someone should be able to do that function and so these things are provided for that reason.

There was a case in Toronto where there was a great shortage. One judge had retired, two of them were ill and there was getting to be a tremendous backlog. One of these civil servants who had held such an appointment had just retired as well. We considered pressing him into service on some kind of daily basis to fill the gap. But as a normal thing, no, appointments are not made to civil servants.

Senator Thompson: Well, the first citizenship court judge in Toronto was Judge Corey, who had been the legal adviser or the lawyer for the department.

Mr. Nichols: That is correct.

Senator Thompson: I think he was one of the best judges we ever had.

Mr. Nichols: That is quite right. I had forgotten that, but I am not aware of any others.

Senator Croll: You are talking about the judge, and that situation in Toronto I am aware of. The man who did all the work thought he might be appointed, and naturally we thought he might be, too. It was a little disappointing.

Mr. Nichols: That was a very special situation, senator.

Senator Flynn: Just think of all those who wanted to come to the Senate and never made it, senator.

Senator Croll: The trouble is the only ones I know who aren't are friends of yours down there.

Senator Flynn: Of course, there would be more on our side than on yours.

Senator Thompson: There are immigration men and women who play a significant role for Canada in the selection of immigrants coming from overseas and so on. Frankly, I feel it would be unfortunate if there were a rule excluding them at the end of their tenure.

Mr. Nichols: It is not a rule. I expressed that as a personal opinion. One judge in Toronto is an ex-immigration officer.

Senator Thompson: Oh, yes, there is, Mrs. Ungar.

Senator Yuzyk: Mr. Chairman, I foresee difficulties here even with the broad interpretation of "may appoint any citizen to be a citizenship judge." With respect to clause 25, subclauses (1) and (2), has the Governor in Council the authority to draw up regulations in the future to carry out clause 25?

Senator Flynn: You mean subclause (1).

Senator Yuzyk: Subclause (1) and, say, subclause (2) regarding the duties of a judge.

Senator Forsey: We haven't got to subclause (2) yet, have we?

Senator Croll: No, but there is a provision for regulations in the act, isn't there?

Senator Forsey: Oh, yes, scads. I should say so; world without end.

Senator Yuzyk: But is there a provision for, say, clause 25(1)? Has the Governor in Council the authority to make regulations regarding clause 25(1)?

Mr. Levy: Senator, in our opinion no particular regulation is required to implement clause 25(1). The substantive

provision of the bill itself would be enough. The Governor in Council would simply, under that, pass an Order in Council to appoint a citizen as a judge.

The Chairman: There is provision in this bill, Senator Yuzyk, for regulations in several different clauses, as Senator Forsey points out. But that clause is not one where regulations would really be required.

Senator Yuzyk: What I am inquiring about is whether the Governor in Council has the authority to make regulations regarding the duties and the appointments of citizenship judges.

Senator Forsey: The duties come in subclause (2), but the appointment surely is simply an appointment. I took it, though, that Senator Yuzyk was wondering whether, though the power to appoint here covers any citizen, the Governor in Council might pass some regulation specifying that only certain varieties of citizens should be appointed.

Senator Laird: For example, take a look at clause 26(1) on page 15. That is pretty broad.

The Chairman: Could we wait until we get to that?

Senator Laird: Yes, but I am just trying to divine what is bothering Senator Yuzyk, and it may be things like that.

Senator Flynn: It would be a matter of policy. The Governor in Council or the Prime Minister could at one point decide not to appoint as a citizenship judge anyone under the age of 30, or something like that. It would be a matter of policy which would not be binding even on the Governor in Council and certainly not on any successors.

Senator Connolly (Ottawa West): What Senator Flynn is saying, in effect, is that clause 25(1) gives the Governor in Council wide discretion. It should be the widest possible discretion, I think, in the circumstances. Unless you are going to howl at that discretion, I do not think regulations are really effective. It is an absolute discretion.

Senator Yuzyk: They are not effective at this stage, perhaps, but in the future they may have difficulties and may decide that regulations are necessary. That is why I am asking whether the Governor in Council has the authority to do this.

The Chairman: He has the authority to appoint anyone under that section.

Senator Yuzyk: And to make regulations regarding the appointment, too.

Senator Connolly (Ottawa West): No.

The Chairman: No.

Senator Connolly (Ottawa West): He does not need them, I think.

Senator Croll: Mr. Chairman, my experience with the citizenship judges is that they are the very best appointments I have seen in years, both male and female, and they make sure there are enough of both of those around. The appointments have been very carefully made, and are very useful, and these are very important people. I have never heard a complaint about them.

The Chairman: The function of deciding if you are going to appoint some women and some men, or whether you are going to appoint young people or old people is an administrative one and not one for regulations.

Senator Flynn: Senator Yuzyk wants to make sure that the good appointments will continue.

Senator Forsey: The Governor in Council has absolute discretion. He could adopt a policy of never appointing a Conservative, couldn't he, Senator Flynn?

Senator Flynn: That would be very bad.

Senator Yuzyk: It would be very bad for the country.

The Chairman: I have one question relative to that subclause. Having appointed a citizenship judge without a time limit, how do you "unappoint" him?

Mr. Nichols: The appointment is only for five years; there are very few that are not.

The Chairman: The order in council would simply state "during pleasure".

Senator Flynn: Yes, if they do not want a fixed appointment.

Mr. Nichols: There have not been any of those recently. The normal thing now is five years.

The Chairman: Shall subclause 1 of clause 25 carry?

Hon. Senators: Carried.

The Chairman: Subclause 2.

Senator Forsey: Mr. Chairman, here again it seems to me that there is a pretty sweeping discretion.

> . . . a citizenship judge shall perform such other duties as the Minister prescribes for carrying into effect the purposes and provisions of this Act.

It appears to me that the prescriptions of the minister would not be statutory instruments, and would therefore not be subject to review by the Standing Joint Committee on Regulations and other Statutory Instruments, for which I have a special care, and it looks like a very wide power indeed. I suppose the answer will be, ". . . for carrying into effect the purposes and provisions of this Act;" but even so, that strikes me as quite possibly involving a wide sweep, and I can't see why, if there is to be subordinate legislation covering these judges' functions, it should not be put into clause 26, to be conferred by regulations by the Governor in Council, and then these things can be scrutinized.

I regret to appear to be so suspicious of what officials may do under this, but we have had such a lot of awful experience in the Standing Joint Committee on Regulations and Other Statutory Instruments, that once again I am extremely sceptical and extremely cautious.

Mr. Levy: Senator, I would suspect that the bulk of the prescriptions of duties, if I can phrase it that way, that may be made under this act, are presently taken care under the regulations, and you will see those powers in clause 26. For instance, there is paragraph (d):

> providing for various criteria that may be applied to determine whether or not a person
>
> (i) has an adequante knowledge of one of the official languages of Canada,
>
> (ii) has an adequate knowledge of Canada and of the responsibilities and privileges of citizenship, or

(iii) has a substantial connection with Canada;

Or:

(e) prescribing the procedures to be followed in the referral of applications to citizenship judges;

(f) prescribing the procedures to be followed by citizenship judges in the performance of their duties;

(g) prescribing the ceremonial procedures to be followed by citizenship judges;

Senator Flynn: These are good arguments for striking out subclause (2).

Senator Forsey: Yes, indeed.

Mr. Levy: I'm not finished, I hope.

Senator Flynn: Even so, you have said enough.

Mr. Levy: What I am suggesting is that with regard to the serious things with which you would be concerned, which is how these matters are going to get before citizenship judges, and how they will deal with them, there will be regulations under the Statutory Instruments Act, which must be referred to your committee, and where you will examine them.

With respect to "such other duties as the minister prescribes for carrying into effect," that would be a residue of less important matters, and I think Mr. Nichols would be better equipped to deal with that than I.

Senator Forsey: Well, what are these duties, beyond the ones that are mentioned in the regulations section? What are you going to confer upon these citizen judges, beyond those duties?

Mr. Nichols: It is not really a matter of conferral. As I said in our first meeting, we have been trying, in the past three years, to change the atmosphere of the citizenship process as regards both the courts and the judges. We have had, in the past, a number of judges who were reluctant to do any more than was strictly required of them. In other words, they were not interested in making the court a more welcoming process than it had been in the past. The minister and his predecessor have both taken the view that in addition to the strict duties that a judge has, he has what they like to call a very strong ambassadorial role, of being welcomers to newcomers on behalf of the Canadian people. Therefore in the past two or three years there has been a program of outreach, as I call it, consisting of opening store-front offices, setting up mobile teams, and all that sort of thing, which has meant getting the judges out of their chambers rather more, and into community gatherings of ethnic organizations, celebrations of national days, and so on, which are not strictly their duties as laid down, but which do fall within their ambassadorial role. The minister has been developing this kind of procedure in an informal way by a series of letters to the judges, and by speaking to them at their annual gatherings, and this kind of thing, with the object of trying to open up the court structure.

Senator Laird: Is that recent, Mr. Nichols?

Mr. Nichols: It began two or three years ago.

Senator Laird: I would like to tell you, as a matter of interest, that about eight years ago I was asked to speak to a group in London, Ontario, which had to do with new Canadians. I say "group", but there was in fact quite a mob in the arena there. I do not know how many people there were, but it may have been as many as 1,500, or something of that kind. Naturally I circulated, but so did Cam Calder, who is the citizenship judge there. He was shaking hands all around. I suppose that is what the minister had in mind.

Mr. Nichols: I did say "some judges". Certainly there have been some who have done this kind of thing for years. Others have not.

Senator Flynn: It is being done now by special letters from the minister? Is that what you said?

Mr. Nichols: Yes. Not many. One or two so far, I think.

Senator Flynn: But has the minister this power under the present legislation?

Mr. Nichols: It is a matter, at the moment, of exercising persuasion and trying to set a policy and a tone.

Senator Connolly (Ottawa West): This was discussed pretty lengthily in the committee of the House of Commons, as I recall it, and I think the feeling there was that the more of this public relations work judges were to do in this field the better off the administration of the act would be. Is that a fair assessment?

Mr. Nichols: I think so.

Senator Forsey: That is fine, of course, Mr. Chairman; but how are you going to prescribe this? It seems to me that the kind of thing the minister is doing now is the way to do this. When you are appointing the judges you tell them the kind of things they are expected to do. You say, "You have certain formal duties, and you must do this and this and this; but we expect you to do such and such, also." It is difficult for me to see how you are going to draft some kind of prescription—an official document—stipulating that he shall go around and meet people so many times a year, and provide them with a certain number of cups of coffee and shake so many hands. How are you going to do this? It sounds to me like a very formal thing, and I should think that the drafting of such instruments or documents would be something of a puzzle, even for the ingenuity of Mr. Nichols and his colleagues.

The Chairman: I suppose that is the reason, Senator Forsey, why they have not wanted to confine themselves to published regulations under clause 26.

Senator Forsey: That may well be, but surely, if the minister is "prescribing", that would be a document which would prescribe duties. It does not say that "the Minister shall give them good advice . . ." or something like that. It says he shall prescribe duties. Now "prescribe" comes from the Latin word *scribo*—I write—and it would be a written document in which he would lay down certain things—"You must do this".

The Chairman: As opposed to simply exercising moral suasion.

Senator Forsey: Yes. So how is he going to do it? How is he going to draw up a letter saying, "One of your duties will be so many cups of coffee per year for new citizens; one of your duties will be so many handshakes; one of your duties will be so many meetings . . ."? How is he going to do it? I don't know.

Mr. Levy: Well, my answer to that, senator, would be that if this power were placed in the regulations, then we would be exactly in that position, and we would have an

awful task. But if it is done in the manner set out in 25(2), then, as I think you said yourself, the answer could be simply a letter. The difference is that right now he has to exercise moral suasion, and the Citizenship Court can say, "I don't want to do that; I don't have to do it by law." Then the minister's only recourse, if he thinks that things have gone too far, is to have the Governor in Council terminate the appointment for cause, if that exists. Whereas even if letters were used or perhaps verbal instructions or simply administrative bulletins, the fact is that the minister can under clause 25(2) of the bill change that moral suasion into something a little stronger. If we have to write regulations, then I think we are faced with great difficulties, whereas now we can simply write a letter saying, "You shall do this."

Senator Forsey: I accept that you don't put this kind of thing in a regulation. You couldn't do it. I accept that. But you still have something here saying that the minister shall prescribe duties, or he "may" prescribe duties.

Mr. Levy: He may not need to; it might work fine on moral suasion.

Mr. Nichols: One hopes that he will never have to.

Senator Forsey: I wonder how he will prescribe these duties.

The Chairman: I think, Senator Forsey, there is one other point here that we might note, and that is the use of the singular—"a citizenship judge". It does not speak here of regulations applying to all citizenship judges. It says:

> (2) In addition to his other duties set out in this Act, a citizenship judge —

That is one citizenship judge, so it seems to me that the minister under this act could prescribe for a certain judge in Vancouver that he should attend such-and-such an annual ethnic event, which prescription would not apply to other citizenship judges.

Senator Flynn: That is possible, but it does not mean that the minister would be restricted to setting out individual duties. He could say, "All citizenship judges shall do this."

The Chairman: I am not saying he is confined to doing it one at a time, but he could do it one at a time if he wanted to, so I think it is a very personalized type of provision.

Senator Yuzyk: I am just wondering what would happen if a citizenship judge got the order from the minister that he must speak at, say, the Liberal convention or that he must speak at a communist convention here in Canada.

Senator Flynn: Which is worse?

Senator Yuzyk: Then if the judge were to decide that that would not be the proper thing to do, you have a conflict between the judge and the minister. Because under clause 25(2) the minister can prescribe such a duty, can he not?

Mr. Levy: I would advise the honourable senator that if I were a citizenship judge, and if the minister were so foolish as to write to me to say, "You shall appear before the Liberal convention . . .", or the Conservative convention or the NDP convention, or any other convention for that matter, I think I would write back to him in a nice way and say he was full of beans, because the act says he can only prescribe for carrying out the purposes and provisions of this act, and he would have to explain why my appearance before anything like that would be for the purposes of carrying into effect the purposes and provisions of the Citizenship Act. So I think that is the protection, senator, in that it has to be for the purposes and provisions of this act. It cannot just be for frivolities.

Senator Yuzyk: I do not see anything wrong with a citizenship judge being at such a convention, but at the same time he may decide that he would not like to be associated politically with something of this nature.

Mr. Levy: Well, I would say that if he wants to go there, then that is fine. The same thing applies to anybody. But if he does not want to go, I do not think that this would authorize the minister to order him to do.

Senator Yuzyk: Does the minister have any disciplinary power?

Mr. Levy: The only thing he can do is make a submission to the Governor in Council to terminate his appointment for cause, and he would have to convince his colleagues that the fact that this judge would not attend some convention or other was sufficient reason for discharging him. So in the event even he were pretty upset about it himself, I doubt if his colleagues, whatever party might be in power at the time, would be greatly agitated about it.

Senator Yuzyk: Well, I am glad the judge has some protection where it comes to the question of an order or a decision of the minister.

Mr. Levy: I think he has good protection.

The Chairman: Shall subclause (2) carry?

Hon. Senators: Carried.

The Chairman: Then, clause 25 carries.

Now we come to clause 26, which is a long clause and it may be difficult for us to take it piecemeal as we have done with some of the others. Perhaps there is some general comment that some honourable senators wish to make about the clause. Perhaps the best way to take it is paragraph by paragraph.

Senator Thompson: Looking at clause 26(b)(i), are there three steps to getting citizenship, and are there fees attached to each step? What is the procedure? You make application and wait for three months?

Mr. Nichols: Under the present act you wait for three months, but under this bill you don't necessarily. There is only one fee paid at one time, and that is at the time of application.

Senator Thompson: How much is that?

Mr. Nichols: The alien fee at the moment is $10.

Senator Thompson: Do you make money from the citizenship courts?

Mr. Nichols: No; we recover something in the order of $1 million a year, but it does not pay for the whole process.

Senator Thompson: So a person must go personally to the court to make the application?

Mr. Nichols: Yes.

Senator Thompson: It is not possible to have the application sent to an applicant?

Mr. Nichols: Theoretically it could be done. However, it is a difficult form and a difficult process and not as simple as the usual example cited of the passport application, which is a fairly simple document. If a person has a birth certificate it is easy to complete it, but the business of establishing who the applicant is becomes a difficult process and is handled by an experienced examiner, who decides which section of the act to apply.

Senator Macnaughton: In addition to that, it is desired to see the applicant in person, physically.

Mr. Nichols: We are referring now to the original application; there is a hearing before a judge at a later stage.

Senator Macnaughton: Even so, that is desirable.

Senator Thompson: Must an applicant working somewhere up in the woods come south to make his application personally?

Mr. Nichols: We discussed this at the previous meeting. There are many ways in which to process an application. If the applicant is near a city in which we have a court or a sub-court, he or she can go there. If they are in a smaller place, our judges and examiners travel on circuit to cover small towns. In the most remote sections of the country we appoint persons as courts, such as local RCMP officers or federal officials of some type, to whom we give training in order that they may act as a citizenship court. There are certainly areas of the country, however, which are not covered, but they are very, very few.

Senator Thompson: Are application forms no longer supplied to offices of lawyers?

Mr. Nichols: The application form must be attested, which may be done by anyone authorized to administer an oath. However, it is easier and preferable for it to be done by a citizenship examiner or someone familiar with the citizenship law.

Senator Thompson: I say this with dues respect to the legal profession, but I know that in the past some lawyers have in my opinion abused the privilege of being authorized to handled these applications by charging as much as $100 for simply completing the form. I believe that is one of the reasons for the forms no longer being supplied to offices of lawyers.

Mr. Nichols: We certainly do not like to see that being done.

Senator Flynn: With respect to passport applications, I believe it is provided that the person who swears the application cannot charge a fee. Probably you could include a similar provision for this.

Senator Thompson: That is a good point. Do you have such a provision?

Mr. Nichols: I am not sure about that.

Senator Macnaughton: I know of lawyers in my home area who do not even think of charging but regard it as a public service which they are obliged to render.

Senator Flynn: The position has been established with respect to passport applications.

Senator Connolly (Ottawa West): That is right, and it has been so for many years.

Senator Thompson: That is an excellent point, because I certainly know that most lawyers would do it as a public service. However, unfortunately some have abused this. For instance, some travel agents and notaries public of ethnic background have really abused those of their ethnic background by charging when they should not.

Mr. Nichols: I am aware of the situation to which you refer, but they are a little different than just matters of attesting the forms. Some of these persons set themselves up as brokers and convince those who do not know better that they must have a person to take them through the process. It is a vicious business, which we try very hard to avoid. However, it is a little different than the process of simply attesting the document.

The Chairman: There is a distinction between compeleting the application forms and advising the person as to the documents he will need to support the application and simply completing a passport document. I have always found, Senator Flynn, that the provision that no fee be charged with respect to passport applications refers to government officials, such as postmasters and other civil servants.

Senator Flynn: An lawyers.

The Chairman: It provides that there is no government fee, but we cannot require a lawyer to act for nothing. I suppose a lawyer could refuse to administer the oath, but if he does it, he cannot charge.

Mr. Levy: Section 30(2) of the existing regulations provides that no fee is payable for the taking of an oath where the oath is administered by a person employed by Her Majesty in Right of Canada. This problem was considered a few years ago, but it eventually disappeared. There was a time, as you said, sir, when there was a problem in connection with this, but it was primarily a matter of education and making it known to people that they did not have to take their oath or swear an affidavit before a lawyer or any other person not employed by the government. The effect of that, of course, was that this problem disappeared, in the sense that we have not, or at least I have not heard about it in a number of years. The essential difference between this and a passport application, of course, is that the word oath is used in connection with a passport application, but it is a guarantee which can be subscribed by a member of the clergy, a lawyer, banker, or policeman, rather than an oath.

Senator Forsey: And by a senator.

Mr. Levy: And by a senator, and the form provides that no fee is chargeable by the guarantor. A citizenship application is a somewhat more complex document and I suppose if we specifically provided in law that no one may charge for such service we might, in effect, be throwing the baby out with the bath water in the sense that is someone in a remote area needed assistance and the only person capable of completing the application form decided to charge $100 or refuse to complete the form it might not be done. However, I do not really believe that it is a problem. As I say, we considered this several years ago in connection with the necessity for legislation to cover this situation and the problem then went away.

Senator Forsey: Has paragraph 26(b)(1) any relevance in such a situation? It provides that the Governor in

Council may make regulations "fixing fees for the making of any application under this Act."

Mr. Levy: That is, of course, the fee that the applicant pays, the $10 to which Mr. Nichols made reference.

Senator Flynn: Paragraph 26(b)(v) reads:

> The administration of any oath, affirmation or declaration filed, made, issued, delivered or administered pursuant to this Act or the regulations, —

Would that be applicable to this situation?

Mr. Levy: We could definitely fix a fee as a maximum. However, on the other hand we would have to be careful in doing this. If my memory serves me correctly, this may have been in mind in those days. If it were provided that anyone administering the oath may charge $5, then everyone administering the oath might want to make that charge, whereas it is being done now for nothing.

Senator Forsey: Wouldn't you need in paragraph (b)(v) to provide "shall not charge anything"? Can you fix a fee of zero by making regulations? I suppose it would have to provide for something such as a nominal fee, perhaps of 50 cents?

Mr. Levy: It is a complex legal position. I have looked at this in the past and I tend to agree with you, based on my memory, that if there is authority to fix a fee it cannot be set at nothing. It may have to be fixed at 50 cents, or one cent.

Senator Forsey: It seems to me that provision against a good many, at least, of the abuses could be made by setting a fee of 50 cents or 10 cents. Any applicants who could not scare up some small change for the taking of the oath would probably be a negligible quantity, in any event, I should think.

Mr. Levy: In fact, what happens with the attestation of these applications is that when the applicant brings them to the citizenship court, at that point the clerk, or one of the other employees authorized, can receive his oath; and I think Mr. Nichols will tell you that in many cases they come in, and they help them fill out the forms at the desk. They say "Is this all true?", and so on, and they go through the procedure.

The Chairman: I am sure there is no problem when they come to a government office. It is only the exceptional circumstances that they are talking about.

Senator Carter: When we stood clause 26 the other day —

The Chairman: When we stood clause 21.

Senator Carter: Yes, until we got to 26, I rather had the idea that we would have the present regulations. There must be regulations now under the present act.

Mr. Levy: There are. There are 30 sections of regulations under the present act.

Senator Carter: Will the present regulations be changed very much under these various paragraphs that we are considering?

The Chairman: This is a substantially different act —

Senator Carter: Could we be told now what the difference will be in the regulation under the various paragraphe, as compared with what they are at the present time—even if at the present time there is no such comparable regulation existing?

The Chairman: Senator Carter, I am, of course, in the hands of the members of the committee, but do we wish to get into the proposed regulations when dealing with the bill now before us?

Senator Laird: I think in general.

The Chairman: It is always my personal view that concerning oneself in detail with regulations is rather a pointless exercise because they can be changed the following month, anyway.

Senator Laird: I feel a lot safer now than I used to, with Senator Forsey and Bob McCleave running a topnotch operation in the Regulations and Other Statutory Instruments Committee.

Senator Forsey: Thank you, senator.

Senator Flynn: I second the motion.

The Chairman: Could we come back to the wording of paragraph (a) of clause 26, and see if it is acceptable?

Senator Flynn: I would say yes.

Senator Thompson: Mr. Chairmen, the three steps that which one has to go through to take out citizenship deter a number of people from taking out citizenship. I used to represent a riding which is very much immigrant. I know they were working people. One of their arguments to me was constantly, "Look, we have got to make some money to pay the mortgage on the house. We cannot take time out to go down and wait in that citizenship court to make application."

Now, you say that if they are keen on their citizenship, they should be able to sacrifice three days on it. I am wondering if the application —

The Chairman: Senator Thompson, we have had a general discussion on the bill. We then went on to deal with it clause by clause. While I certainly would not want to inhibit any senator from developing general questions relative to the bill at some point in this hearing, I do think, however, that now that we are on it clause by clause, we really should stay with it clause by clause for the time being.

Senator Thompson: Let me narrow down my question. I am talking about the place at which applications are to be made. It is under clause 26(a), which says:

> and the place at which applications —

I am wondering whether we can actually do this by mail as the first step.

Mr. Nichols: No. But we are very much aware of the problem you are discussing. It is possible now in some cities, certainly in Toronto, to go through the entire citizenship process outside of working hours.

Senator Thompson: I am in favour of the steps you are taking in reaching out beyond the court, but I am still concerned with the individual having to come to a place. If consideration could be given to the first step being by mail, it would be helpful.

Mr. Nichols: It is a step we certainly have considered, and, indeed, experiments have been tried in the past with

self-filled forms for citizenship. They were not successful. We have not given up the idea. We are still trying to devise such a form; but we have failed. It is too complicated. Normally they need help to do it. It usually saves a lot of their time and ours to have the thing done correctly in the first place. I understand from External that even with the relatively simple passport application form, there are a great number that have to be returned because they have not been properly completed.

Senator Thompson: Thank you.

The Chairman: Shall clause 26(a) carry?

Hon. Senators: Carried.

The Chairman: Shall clause 26(b) carry?

Hon. Senators: Carried.

The Chairman: Shall subclause (i) carry?

Senator Carter: Are you referring to paragraph (i)?

The Chairman: I am now referring to clause 26, subclause (b), sub-subclause (i). I shall be referring to (i), (ii), (iii), (iv), (v), and (vi). Shall (i) carry?

Hon. Senators: Carried.

The Chairman: Shall (ii) carry?

Hon. Senators: Carried.

The Chairman: Shall (iii) carry?

Hon. Senators: Carried.

The Chairman: Shall (iv) carry?

Hon. Senators: Carried.

The Chairman: Shall (v) carry?

Hon. Senators: Carried.

The Chairman: Shall (vi) carry?

Hon. Senators: Carried.

The Chairman: Subclause (b) carries. Shall subclause (c) carry?

Hon. Senators: Carried.

The Chairman: Shall subclause (d) carry?

Hon. Senators: Carried.

The Chairman: We come now to (d)(i), (ii), and (iii).

Senator Thompson: Mr. Chairman, may I ask a question under (d)(i), in respect of the words "adequate knowledge"? I know this has been discussed. I felt that Senator Forsey had made a very good point, when speaking in the Senate, in referring to the background material in order to obtain "adequate knowledge." How is the material distributed? Is the material to be taught in classes across Canada distributed by the provinces or the federal government?

Mr. Nichols: It refers to two things, Mr. Chairman: the materials the honourable senator has described, which would be distributed by the provinces; and materials given to applicants at the time of their application, to prepare for the hearing.

Senator Thompson: Let me go to my second point, the material given by the courts to the applicant. Has that to do with our land, history and government?

Mr. Nichols: That is an old series, which is not now used. Pieces of it are still all right, but much of it is out of date and out of print. At the present time our materials are sparse. We are now developing new materials, which is what interests Senator Forsey greatly, in view of his experience with Information Canada, of blessed memory.

It is a difficult thing to do. Let me say just a few general things. We take the view that the phrase "adequate knowledge" means adequate to the circumstances of the applicant. This is a neat problem for a citizenship judge, to establish how much knowledge he requires of the person before him. The judge is provided with lots of documentation before a person actually appears; so he knows what is the person's level of education, what he does for a living, where he lives, how old he is, if he strays far from his home, and all kinds of factors of that nature. He then ascertains whether a person simply needs enough knowledge to get around the city and do his shopping and understand the voting system to a certain extent, or whether, indeed, the interview should be far longer and deeper and eliciting more views of society, politics, and one thing and another. It is a difficult problem.

Senator Thompson: Both my wife and I took our citizenship under the act. When my wife took her citizenship, I gave her the material which you at that time were handing out to new citizens to learn about Canada. It was most involved and complicated. She almost had a heart attack when she looked at our resources, which went into the exact tonnage which came out of Abitibi mine, and so on. Had she taken it seriously, she would now possess an encyclopedic knowledge of Canada. That series was a waste of the taxpayers' money. I do not know what material you are handing out now, but I suggest, first of all, it should not be that detailed and, secondly, it should be in easy-to-understand English.

I recall at one time there was a suggestion that prospective citizens should have a vocabulary level of 600 or 1,000 words when they took their basic English. Someone made a study of the vocabulary level of materials being provided to new immigrants dealing with adequate knowledge, and it was something near the equivalent of that of a Ph.D. Another thing that interested me was that the basic English text being provided was written by an Englishman, a Mr. Richards, so we were teaching good English expressions to Canadian citizens. I just throw those things out as matters which we should look at carefully.

Mr. Nichols: I am aware of all of those terrible things, senator, and we are doing our best to rectify them.

Senator Forsey: May I ask a question about the words "providing for various criteria"? Are there regulations now, or will there be regulations, setting out the criteria? It looks to me that what is to be provided for is not only this matter of the materials that you hand out, as Senator Thompson has talked about, but you eventually may have regulations setting out criteria in these matters.

Mr. Nichols: The criteria will be general, of course. It will not be a case of a prospective citizen having to know the following 13 facts. That would be rather self-defeating.

Perhaps a little history would help. When the present act was passed, as I explained earlier, there were no citizen-

ship courts. The matter of citizenship was handled by the regular courts. That system continued for some years, with the provincial court judges wondering what in the world they should be asking. This came back to citizenship headquarters, I understand, who, in turn, had not given it very much thought, and they thought that the neat way out would be to take a survey of all the judges in Canada to find out what they had been asking, which they did, and they arrived at a list of 45 questions. They then pared that list down to something more reasonable, getting rid of the repeats, and so forth, and then sent a simple letter to all of the judges setting out the kinds of questions they might want to ask.

As you will no doubt agree, that was not totally satisfactory. When we started appointing our own judges, the kinds of materials to which Senator Thompson referred were used; but, again, they did not prove very satisfactory. That, combined with the fact that we have always been short of judges, and that in cities like Toronto, which has probably been the greatest disgrace in this particular respect, potential citizens have been clocked through the courts in about 90 seconds, which is just incredible, has resulted in many of the proposed changes. It is totally unbelievable that the requirements of the present act to determine a person's character, whether or not he can speak English and how much he knows about Canada, and so forth, can possibly be covered in 90 seconds. It is bizarre. It has not really been a problem, simply because no one could possibly do what had to be done on time.

In the last year, we have developed a kind of formula with which we are reasonably content as to the number of judges required, based on the duties they have to perform. The average time now for an interview has been set at 15 minutes. It can be longer; it can be shorter. That is a far more adequate time. So that peculiar aspect of it has been cured. We are now working on more reasonable materials to go with that.

I thought that sorry bit of history might help you understand why we are now concerned and want to put something in the act and in the regulations that lays down some kind of basic level. If one happens to get a judge who does not want to talk to anyone for longer than 90 seconds, which I doubt would be the case, then certain demands can be made of him.

Senator Connolly (Ottawa West): In this connection, Mr. Chairman, I was rather impressed with some evidence given before the committee of the other place by two groups, both of whom purport to train landed immigrants for citizenship, leading to the hearing. One was called New Canada and the other one was called the Confederation of Italian-Canadian Associations and Clubs. Another group was the Labourers' International Union of North America. They seemed to carry out special training programs for prospective citizens. Are there many such voluntary organizations throughout the country?

Mr. Nichols: Not a great number. The largest concentration of such groups is in Toronto. Peculiarly enough, cities vary in this respect. Although Montreal has the second largest court, the activities of outside voluntary groups is practically nil, whereas in Toronto it is a very active scene. The Labourers' International Union of North America is new in this field. They described an experiment that they tried. Voluntary groups such as you mentioned are very active in Toronto. New Canada has quite a lengthy history of helping people get through the process.

Senator Connolly (Ottawa West): It is very praiseworthy work on the part of these voluntary organizations.

Mr. Nichols: Indeed.

Senator Connolly (Ottawa West): Otherwise, it would be up to the individual to read what he or she can; to find out from newspapers and association with others, and that sort of thing, what one needs to know. I should think these organizations comprise, in effect, a wonderful arm to the citizenship courts.

Mr. Nichols: Probably the most interesting experiment that we are toying with at the moment is the development of a series of television programs to be shown on cable systems.

Senator Connolly (Ottawa West): You would have to repeat them fairly often.

Mr. Nichols: Quite right, but the cable companies are more than happy to accommodate that sort of thing.

Senator Thompson: Am I correct, Mr. Chairman, that an immigrant applying for citizenship in the United States has to attend compulsory classes? That may no longer be the case, but I believe it was at one time. I would view such a provision as a bottleneck to obtaining citizenship, but I am curious as to how it worked in the United States.

Another problem area that comes to my mind is the judge who might not like a particular group, or even an individual, or a judge who had an unfortunate aspect, and I am thinking of a judge I knew at one time who told me that when he had someone before him who he felt was a bit obstreperous, he would ask him how many feet is the highest mountain in Canada, and when the applicant could not answer he would tell him to go back and learn something about Canada.

That was his approach to failing someone. Do we have any means by which we can check on judges who might have a prejudice against some particular group which might evidence itself by the number of failures?

Mr. Nichols: Yes, we keep that type of statistic. I would certainly hope that an applicant who was asked that question would appeal the decision, and I would wish him well in his appeal.

Mr. Levy: I might add, it is not beyond the realm of possibility that if we saw a particularly horrible incident and the applicant was stunned by it and did not want to appeal, we might appeal. We would have that power under the new legislation.

Senator Forsey: One hopes you would not get any citizenship judges who would echo the words of an acquaintance of mine not long since, "Je ne suis pas anti-sémite, mais je déteste les Juits!"

Senator Yuzyk: These materials on Canada and Canadian citizenship, and the like, are provided in the two official languages. I also understand that some of the materials are provided in other languages. Is that right?

Mr. Nichols: Not by us.

Senator Yuzyk: Not by the citizenship court or by the Department of Secretary of State?

Mr. Nichols: There are, I believe, some materials of various kinds prepared by the multicultural people, not specifically for this purpose, but simply multilingual ma-

terials. There are multilingual materials prepared by Immigration as well. Citizenship does not do so.

Senator Forsey: There may also be something from External Affairs. I got some documents from them some weeks ago. I had not looked at them carefully until yesterday, when something came up about one of them. I discovered that one, "Facts on Canada," had been handed to me entirely in some Scandinavian language; I could not say which one, but it was "Facts on Canada." I thought at first it was a misprint, but it must mean, "Facts on Canada." On investigation I found that the whole blessed thing was, I don't know what, Icelandic, Swedish, Norwegian, Danish. It is possible that material is available in a good many languages from various government departments, but how far it may be used by any of your people I do not know.

The Chairman: Are there further questions concerning (d)?

Senator Flynn: I was wondering if there was a short answer to prove that you had an adequate knowledge of the responsibilities and privileges of citizenship.

Mr. Nichols: No. It is an interview.

Senator Flynn: But what should you say to prove that you have? I suppose you have to compare Canada with another country.

Mr. Nichols: It is done by interview and we concentrate on a knowledge of how to vote.

Senator Flynn: How to vote?

Mr. Nichols: Yes, how to vote.

Senator Flynn: I thought for a while it was a fact that you were teaching immigrants how to vote. I think you mean the responsibility to exercise not only their right but their duty to vote.

The Chairman: How to cast a vote.

Mr. Nichols: How to carry out the duty. We do not slip them little bits of paper with a name on it.

Senator Thompson: It says, "has a substantial connection with Canada." It does not refer to finances?

Mr. Nichols: No.

Senator Thompson: What does it mean? Does it mean your family and the length of time you have been in Canada?

Mr. Nichols: Those regulations are not written; we are working on them, and that is one of our major tasks at the moment. That refers to the fact that the second generation born abroad must establish a substantial connection with Canada in order to retain their citizenship. What that shall consist of is one of our problems.

Senator Thompson: I am not a lawyer, but it seems awfully vague the way it is worded, "substantial connection."

Senator Flynn: It is intentional.

Mr. Nichols: The present act uses "residence"; you have to come here and live. We think that it could be somewhat looser then that. It will be a fairly tough regulation.

The Chairman: I see it says:

> . . . or
>
> (iii) has a substantial connection with Canada.

That is someone presently living outside of Canada, is it?

Mr. Nichols: Under this bill the first generation born abroad is Canadian, no questions asked. The second generation must establish a substantial connection with Canada in order to retain citizenship. That is what that refers to.

Senator Macnaughton: What about a Canadian girl friend?

Mr. Nichols: It is certainly worth considering!

Senator Laird: That is substantial.

Senator Flynn: Are you suggesting a substantial connection?

Senator Laird: As a matter of interest, those words "substantial connection" were kicked around by some of us in Windsor with the minister on the question of getting the right to come into Canada. Down there we have the situation where the consulate in Detroit has been turning down people with a substantial connection in Canada merely because they did not comply with the other tests. That was why, as you may recall, a couple of years or so ago the regulation was changed.

Mr. Nichols: You are talking about immigration.

Senator Laird: I am talking about immigration, but it is the same point we are making here. What is a substantial connection? We tossed at the minister several examples. You can conjure up plenty, but we had them for real down there, such things as having lived in Canada and gone to the United States, been there for 25 years and wanting to come back. That is the sort of thing.

The Chairman: Shall (d) carry?

Hon. Senators: Carried.

The Chairman: Shall (e) carry?

Hon. Senators: Carried.

The Chairman: Shall (f) carry?

Hon. Senators: Carried.

The Chairman: Shall (g) carry?

Hon. Senators: Carried.

The Chairman: Shall (h) carry?

Senator Forsey: Not without several questions from me, Mr. Chairman. Here we have this word beloved of the Department of Justice, which I understand does not appear in any statute of the United Kingdom, and which is a sort of umbrella or portmanteau word, this word "respecting":

> . . . regulations . . .
>
> (h) respecting the taking of the oath of citizenship.

I am going to make my own the words of my legal adviser, who says:

> We know that the Crown says this enabling word permits some delegation and dispensation. Accordingly, a regulation could be made delegating to the minister all the power to make rules for the taking of the oath. Clause 21 could then operate and the Groom of the Back Stairs could be authorized to make the rules.

> Similarly, under the guise of "respecting", Special Citizenship Regulation No. 1 of 1977" could be issued exempting one Louis Napoléon Gottschalk from taking the oath, and the dispensing could be done by the minister or by the groom if authorized.

His comment winds up with a question:

> Why should this paragraph not read: "prescribing the manner of the taking of the oath of citizenship?"

If you simply say, "respecting the taking of the oath of citizenship" the door appears to be wide open to all sorts of games, even, as he says, in conjunction with clause 21, all kinds of games by any official whatsoever. The thing can be delegated indefinitely. We have had special immigration regulations—whose validity, incidentally, we are still contesting—and we were suspicious of the possibility of special citizenship regulation No.1 dispensing with the oath for this, that and the other individual person.

Senator Macnaughton: Would you mind telling us who is the authority you are quoting?

Senator Forsey: I am not quoting an authority. I am telling you the advice I got from the gentleman who is in fact the counsel of the Joint Committee on Regulations and Other Statutory Instruments, from whom I requested an opinion on some of this, because I wanted to see, if possible, that we did not get a whole lot of booby traps for our committee written into this legislation, by inadvertence or otherwise.

The Chairman: What was the reference you made to "prescriptive powers", as I understood it?

Senator Forsey: No, I did not say that. I was referring to the word "respecting."

The Chairman: I understand the word you are concerned with in your comments.

Senator Forsey: The word "respecting" has been taken by the law officers of the Crown to cover almost an infinity of things. You can do almost anything you like when you have got the word "respecting." Then under clause 21 you get the power of delegation, and it has been interpreted to mean also the power of dispensation, so that you could have a particular special regulation exempting M. un tel, Mr. So-and-So, John Doe, from taking the oath. It is "respecting the taking of the oath," not "prescribing the manner of taking the oath" or anything like that, which is perfectly reasonable and legitimate, but this wide, blanket, portmanteau, umbrella power to do anything respecting the taking of the oath. Not taking the oath is obviously something respecting the oath.

Mr. Levy: I will commence answering that, Senator Forsey, by saying that I am not in accord with the advice you received, in so far as the immigration special regulations are concerned. This is a different kettle of fish that we have here.

I do not want to pass judgment or attempt to pass judgment one way or the other on the special regulations, but I do point out that here we have a different situation. Firstly, the oath is statutory. It is set out in clause 23 and it cannot be changed by regulation. That is the law. The law also says who must take the oath, and that is in clause 5. So, you cannot pass a regulation changing a statutory provision unless you have a statutory provision which specifically authorizes that, and we do not have that here.

Senator Forsey: Would you mind making that point again? I am not sure I have it.

Mr. Levy: My point is the law is very specific. The bill says what the oath is. It is in clause 23. In clause 5 it is stated who must take the oath. So, you cannot pass a regulation exempting that specific provision unless you had a regulation-making power which said, "Notwithstanding clause 5" to exempt people from taking the oath.

Senator Forsey: This is exactly what I am afraid of.

Mr. Levy: We do not have such a substantive provision in this bill.

I would mention that the British North America Act uses the expression—and correct me if I am wrong—"in relation to."

Senator Forsey: Yes. That "in relation to" in the British North America Act is one thing on which there is a good deal of jurisprudence, and "respecting" which doesn't appear in any British statute is another thing. This is in a regulation and it is not an act. I do not think there is very much jurisprudence on it.

Mr. Levy: I would suggest, sir it would be the same. I would like to explain to you what this word "respecting" covers. First of all, it says, "respecting the taking of the oath of citizenship" which in our interpretation means how, when, before whom and so on.

Senator Forsey: If I may interrupt you there, in that case why not simply say, "prescribing the manner"?

Mr. Levy: I do not think one little phrase would cover that. I would refer you to section 34(1) of the existing act. This will explain, and satisfactorily I hope, why the word "respecting" is used. The existing act contains power to make regulations as follows—and I am going to skip the ones that are not relevant:

> (34)(1) The Governor in Council may make regulations generally for carrying into effect the purposes and provisions of this Act, and in particular with respect to the following matters:
>
> . . .
>
> (b) the time within which the oath of allegiance is to be taken before or after the grant of a certificate of citizenship;
>
> (c) the persons before whom the oath of allegiance may be taken and the persons before whom any declaration under this Act may be made;
>
> (d) the form in which the taking of oaths of allegiance is to be attested and the registration thereof;
>
> (e) the persons by whom certified copies of oaths of allegiance may be given; and the proof in any legal proceedings of any such oaths;

I do not know offhand if there are any more. I would make it quite clear that the word "respecting" was used there to cover all those specific paragraphs, which we felt would have to be spelled out, and the words "prescribing the manner" would not be enough and we would be driven to repeating all this matter or put "respecting the taking of the oath," when it was clear we have provision in the act now saying what the oath is and who must take it.

Therefore, the Governor in Council could not, by regulation, exempt a person from taking the oath, on language of

that kind, when the act is quite clear that the oath must be taken by everyone over the age of 14, or whatever it is.

The oath is clear as to what it must be. Therefore, I would suggest this language is a little more innocuous than it was taken to be by your adviser, and its intent, to save a third of a page of various things. It really only relates to procedure—how, when and before whom and so on. That is really all I can say about it.

Senator Forsey: I think it would have been better to put in the things you have got in the present regulations. I hope no troubles come from this, but I am an old skeptic.

Mr. Levy: You will see the regulations.

Senator Forsey: Yes, we will see the regulations but whoever comes before us will say, "You see, Mr. Driedger, 'respecting' covers everything."

Senator Flynn: I would say that as long as there are provisions specifying the form of the oath and the necessity to take it —

The Chairman: And who must take it.

Senator Flynn: And who must take it, yes.

Senator Forsey: I hope it's all right.

Senator Flynn: The regulatory power could not change that in any way, it has to be something outside, and if we have something outside of that, that would worry you or me and then we could really raise a question.

Senator Forsey: I suppose if something happens that is not covered by this explanation, then the committee will simply report to Parliament —

Senator Flynn: Yes, we have to keep some work for your committee.

Senator Forsey: Very well, Mr. Chairman, all right.

Senator Connolly (Ottawa West): I would just ask one short question. I take it that the taking of the oath is one of the essential steps in the acquisition of citizenship.

Mr. Nichols: It is the final step.

The Chairman: Shall subclause (h) carry?

Hon. Senators: Carried.

The Chairman: Shall subclause (i) carry?

Senator Flynn: A certain number of copies—I have no problem with that.

Hon. Senators: Carried.

The Chairman: Shall subclause (j) carry?

Senator Forsey: Mr. Chairman, who decides whether there is "reason to believe that the holder thereof may not be entitled thereto or has violated any of the provisions of this Act?" Does the Governor in Council decide?

Mr. Levy: I do not want to use the word "decide" here because the registrar will not be the last one to decide, if it comes to that. The registrar may write to a person and/or the minister, perhaps—whatever the regulation says—and state, "You, sir, have a citizenship certificate to which you are not entitled and you will return it to us immediately." If the individual contests that, then the courts will decide.

He may immediately hail us into the Federal Court—under section 18, I believe. He could also defy the department and leave it open to the department to prosecute him, in which case the court might acquit him.

So, the answer to your question "Whom?" is: In the end the Federal Court would decide, if there is a disagreement between the person who has possession of the certificate and the department as to whether or not he should have it.

The Chairman: I have some difficulty with this. Let us assume, for the sake of argument, that I have a perfectly valid certificate of citizenship. The minister can make regulations which can be very broad, providing for its surrender. What penalties could be impose in the regulation for providing for that surrender? It is a very serious thing to demand someone's certificate of citizenship from them.

Mr. Levy: The penalties are in the act, Mr. Chairman. We have regulations like this now. I would refer senators to sections 24 and 25 of the existing regulations:

> For the purposes of paragraph (1) of subsection (1) of section 34 of the Act, —

Which is a simple provision.

> — the Registrar may, in writing, order a person to deliver to him any certificate of citizenship, certificate of naturalization or any other certificate issued pursuant to the Act or these Regulations that has been granted or issued to that person and that person shall forthwith comply with that order.
>
> (2) Where the Registrar is of opinion that the holder of a certificate of citizenship or a certificate of naturalization has violated any provision of the Act or these Regulations, he shall cause to be retained any certificate delivered to him by that person until that certificate is no longer required as proof in any legal proceedings that may be instituted in consequence of the alleged violation.
>
> (3) Where the Minister has determined that the holder of a certificate of citizenship, certificate of naturalization or any other certificate issued or granted pursuant to the Act or these Regulations is not entitled thereto, the Registrar shall cancel the certificate.
>
> 25. No person shall, at any time, hold more than one valid certificate of citizenship or certificate of naturalization and one miniature certificate of citizenship except that where a person is included in a certificate of naturalization relating to more than one person, he may also hold a certificate of citizenship.

Now, the reasons for these are evidentiary. There have been abuses in the past. We have had prosecutions. It happens at the border that someone claims to be a citizen and is carrying a certificate not belonging to him. A person might lend his certificate to another person not entitled to a certificate in order to let him use it for the purpose of border crossing. So there are situations where you need the evidence.

Another thing is that sometimes people get certificates of citizenship by fraud. In that case you have to get the certificate back. Sometimes a person might somehow happen to carry or to have more than the two permitted certificates for which there is a reason. If a person has the large version, you know, the presentation one which is suitable to frame and put on the wall, if you wish, but

which you would not like to carry in your breast pocket, and the handy wallet size which people do carry, then, if a person has more than one of each, that is open to abuse. They can get into the wrong hands.

So these provisions are really to enable the necessary regulations to be made to ensure the proper administration of the act and to ensure that when evidence is needed before courts it will be available, and also to make sure that if a person has obtained a certificate of citizenship by fraud it is taken away after the appropriate court action. In other words, we would have the right to demand it and if anyone objected, saying that we were acting wrongly, then that person could take us to court.

The Chairman: Part of the answer to my question is that the use of the word "surrender" there is to surrender a document and not have it revoked. In other words, your citizenship status does not change. We are dealing with pieces of paper.

Mr. Levy: That is right.

Senator Flynn: My problem is that you say that "the holder thereof may not be entitled thereto." I have no problem with that, but then you say, "or has violated any of the provisions of this Act;". He may be subject to a fine or something like that, but do you suggest that any violation of the provisions of this act should have as a consequence the obligation of surrendering the certificate?

Mr. Levy: Well, it would depend on what it is.

Senator Flynn: In the way it is drafted, if someone has violated a provision of the act you can order the surrender of his certificate.

Mr. Levy: But what provisions could he violate?

Senator Flynn: The point is that because of the way it is drafted it does not even matter if they are related.

Mr. Levy: But the act has specific offence provisions which we have not yet got to. If I may jump ahead and refer to clause 28, those are the ones.

Senator Flynn: There are some, of course, which provide that the holder of a certificate is no longer entitled to it. But my question is related to the suggestion that any violation of the act would have as a consequence the obligation to surrender the certificate.

Mr. Levy: Well, the only violations of the act are those specifically set out in section 28.

Senator Flynn: If you answer, "yes," then I am satisfied, but I want you to tell me if there are violations which should have as a consequence the surrender of the certificate.

Mr. Levy: I would say, just glancing at these, and, you know, we can go over them in detail when we reach clause 28, but as I look at these clauses now I would suggest that for every one of them we would want to have the certificates surrendered until they were no longer needed in the court proceedings, because every one of these offences relates to misuse of certificates.

Senator Flynn: I suggest to you that if you were to stop after the words "may not be entitled thereto," that would cover your point. Obviously, if the person is not entitled to the certificate because of a provision in the law or because of the regulations, it would be sufficient to stop right after the word "thereto." You would not need the rest of it, "or has violated . . ." and so on.

Mr. Levy: But he may be entitled to it.

Senator Flynn: He may be entitled to it even if he has violated the provisions of the act? That is what you are suggesting now.

Mr. Levy: If I am a citizen, I am entitled to hold a certificate of citizenship. Just using one of these offences in the act, if I knowingly permit my certificate of citizenship to be used by someone to impersonate me so that he can go to the United States for the weekend, for example, that is an offence. I am still entitled to that certificate. There is no offence in law which will take away my citizenship from me. I may get fined, but I will not lose my citizenship and so I will not lose my certificate.

Senator Flynn: But you will lose it here.

Mr. Levy: No. But I have violated a provision of the act; therefore that certificate is needed in order to make the case against me that I have lent my certificate to someone else. They would want to have the evidence. The existing regulations and the ones which the statutory instruments committee will receive will contain the same provision: "until it is no longer required as evidence in judicial proceedings." I am still entitled to a certificate, but I have violated the act.

Senator Flynn: If it is for the purpose of securing evidence, I cannot follow you. I would say you just have to subpoena the person and ask the person to bring the certificate in. You do not need to use this for that purpose.

Mr. Levy: But what if we are investigating?

Senator Flynn: You can do it in the same way; you can seize it. You have all the usual means of enforcing the law. But I suggest to you that the words "or has violated any of the provisions of this Act," are simply throwing confusion into the whole process.

Mr. Levy: I hesitate to try to argue the point at too much length with you, senator, but I would suggest to you that the act is quite clear as to what the offences are, and it is quite justifiable to ask someone to produce the certificate.

The Chairman: It does not say, Mr. Levy, "someone who has committed an offence under this Act." It says, "or has violated any of the provisions of this Act." A citizenship judge, for instance, is a citizen. If he violated a provision of this act relative to his performance as a judge, which has nothing to do with any of the offence sections, you could demand his certificate back from him.

Mr. Levy: Well, we have had this provision in the law since 1947, and we have not done that yet.

Senator Flynn: That is always the last argument.

Mr. Levy: I am trying to explain that there are good legal and administrative reasons for having that provision in there.

Senator Flynn: I am not too sure.

Mr. Levy: Because if you are making an investigation, then this authorizes you to get information you need.

Senator Flynn: You have that power notwithstanding this, I am quite sure.

Senator Thompson: Why could you not make the change which the chairman suggested, and instead of using the words "has violated any of the provisions, " say, "or has committed an offence under this act."?

The Chairman: Yes. Why not?

Mr. Levy: Well, we do not know that he has committed an offence until the court has convicted him. A person is innocent until proven guilty. He has not committed an offence until he is convicted of it.

Senator Thompson: I am a layman, not a lawyer. If it were shown later that I did not have adequate knowledge of English—which a lot of people think I do not have—I would not have my citizenship. I would have violated a provision of the act.

Mr. Levy: Well, if we cut it off where Senator Flynn suggested, we would have the same problem, "may not be entitled thereto," but the fact is, one you have been granted citizenship, you have it, unless it is removed from you according to the act.

Senator Flynn: Of course, but if your purpose is merely to force the production of the document in court you do not need this legislation, you have the usual legislation that is available to force someone to appear in court and produce a necessary document.

Mr. Levy: We do not know that we want to go to court until we have had a chance to examine the situation. This also avoids the necessity of a police investigation, in the sense of the police coming in with a search warrant, and so on. We can write to the individual and say, "Send us your certificate," and if he does not want to do so, he can tell us where to go, if you will excuse my saying so.

Senator Flynn: Well, yes. Then, of course, it is a matter for the police. However, take the first provision:

> .... if there is reason to believe that the holder thereof may not be entitled thereto or has violated any of the provisionse f this Act;

Just read that. fou have the word "or" there. What does it mean when you say,"or has violated any of the provisions of this Act"? Whether you needed the surrender of the certificate or not, you would force him to surrender it because he had violated a provision of the act.

Mr. Levy: I am not sure that I follow you, sir. The only provisions of the act that it could possible relate to are the offence sections. If someone becomes a citizen without adequate knowledge he has not violated any of the provisions of this act. If anyone has done it, it is the citizenship judge who passed him. These things have to be related to that section.

Senator Flynn: That is what you say.

Senator Laird: Why could you not add words such as, "has violated provisions of this act as set out in Part VII"?

Mr. Levy: I would think that would be unnecessary, because that is the only place where they are set out. That is the only place where an individual citizen can violate the act.

Senator Laird: But the chairman gave a perfect example a minute ago of this.

The Chairman: In fairness to Mr. Levy, Senator Laird, I must say that I was just running through the act very quickly, and I may have missed something, but apart from the one about the judges that I rather reached for as an example a minute ago, it is very difficult in this particular act to find any clauses that you can violate up to the offence section; so from a practical point of view I think it is probably not too worrisome. However, there is no question, in my judgment, Senator Flynn, that your point is well taken. If this were a more normal statute, you would have all kinds of things that you could violate, in addition to just the offence sections, and this would catch all of them.

Senator Flynn: In the example you gave, Mr. Chairman, if I give my citizenship certificate to someone else, who uses it, I violate the act thereby but I do not lose my citizenship. I am forced, however, to surrender my certificate indefinitely.

Mr. Levy: Only while it is required for the proceedings.

Senator Flynn: if it is only required for the purposes of prosecution, all right; but you might interpret this as meaning that I am to lose it indefinitely if I have violated a provision of the act.

Mr. Levy: But it does not mean the same thing, sir.

The Chairman: "Surrender" and "retention".

Senator Flynn: The way it is drafted it does.

Senator Forsey: As you read the present regulations, it would mean, in effect, that if the registrar has reason to believe "that the holder thereof may not be entitled thereto or has violated any of the provisions of this Act," the registrar may require the surrender of the certificate.

Mr. Levy: But the registrar administers the act, and if he is wrong, this is exactly the type of thing that section 18 of the Federal Court Act covers.

Senator Laird: Does it enable an appeal to the Federal Court?

Mr. Levy: It enables an appeal for *mandamus* or *certiorari*, or any of those wonderful remedies that we have.

The Chairman: You could get it back, no doubt, but you would be put to great expense and trouble.

Senator Flynn: I am not too sure about that.

Mr. Levy: The point is, we need this power. There may be all kinds of allegations, and one does not want to have to call upon the RCMP to get search warrants in order to go and grab this, that and the next thing. We would prefer to have a power which enables the registrar to do this kind of thing so that the department can have a look at the matter, then, if the department feels that further steps are warranted, the matter may be turned over to the police. If the police feel there has been no violation, the thing can be returned. It is just a simple administrative procedure, and I can assure you that in the ten years that I have been around the department there has never been an abuse of this provision. The usual type of case is the one that is referred to us by the RCMP, who pick the person up at the border.

Senator Forsey: But there is the point that Senator Flynn made. There is no limitation here. I can be asked to surrender my certificate and there is no indication of when it will be returned. Could I get a *mandamus* order against the registrar to make him hand it back?

Mr. Levy: You certainly could. The certificate is only a piece of paper. It is only evidence of something. It does not affect your citizenship, and as a citizen you are entitled to a certificate. If we wanted to be so silly as to insist that we were not going to return it, all you would have to do would be to write for another one. If we refused to give you one, you could then take us to court. You could say, "I am entitled to a certificate. I am a citizen."

Senator Flynn: Retaining my certificate because I have violated the act, even if I am entitled to a certificate, would be a penalty.

Mr. Levy: That regulation is only an administrative power, and would not authorize the department to retain the certificate.

Senator Flynn: The way it is drafted, I suggest that you could.

The Chairman: I would go so far as to say, just taking it as it reads here, that you could demand the surrender of the certificate and retain it, and then never prosecute.

Mr. Levy: In that case, if the department wants to act as arbitrarily as that, the citizen again has his remedies.

Senator Flynn: That may be a good judicial interpretation, but on the other hand it may not be. It is not at all obvious, from the way it is drafted, that you would use this power just for the purpose of investigation.

Mr. Levy: If you will allow me, sir, this situation is really covered, in my opinion, in Part IV in clause 11(1). This is the part dealing with certificates of citizenship. Clause 11(1) says:

> Subject to any regulations under paragraph 26(*i*), the Minister shall issue a certificate of citizenship to any citizen who has made application therefor.

If you look at clause 26(i), you will see that the number of copies is mentioned that a person is entitled to, which means, in practice, as I mentioned before, one large size model suitable for framing—the one you get at the citizenship court—and the wallet sized version. Clause 11(1) of the act would be specific on that point, and it would override 26(j). You are entitled to have a certificate. The retention of it is only authorized for judicial procedures.

Senator Flynn: The minister has already issued the certificate in the case we are talking about, so he does not have to issue another one. He has issued one under the regulations, and he has ordered you to surrender it, so there is no contradiction between 11(1) and 26(j).

Mr. Levy: I do not think any court would buy that one, because the citizen still does not have his certificate. I do not think the minister would get to first base relying on a contention like that, with all due respect.

Senator Forsey: According to your contention, he has already issued the certificate and is entitled to say how many copies the citizen may have.

Mr. Levy: I would suggest that the court would say that that is no defence, because the individual does not have the copy.

Senator Flynn: Suppose the meaning I put on the power of regulation as we were discussing it is that there is a penalty that can be imposed on someone violating the act who is nevertheless entitled to a certificate of citizenship, consisting of being deprived of it for a period, that would not come into conflict with clause 11. There would be no contradiction between the obligation upon the minister to issue a certificate and the possibility that the citizen could be forced to surrender it for any period.

Mr. Levy: What I am suggesting to you, senator, is that if the minister called for the surrender of a certificate because it was required for the purpose of certain proceedings, and then did nothing, or the case dragged interminably, or the minister refused to return it, and the individual went into a court of law to ask for one of the common law remedies now enshrined in the Federal Court Act, for example, *mandamus*, that the judge in the circumstances, if the minister did not have a reason that was satisfactory to the court for retention of that certificate, would make an order for the issue of another one subject to the minister's returning the original one within so many days. Of course if the trial were to come up within a short period of time, and the certificate were needed, then obviously the court would not interfere. But if the minister in the type of case that you are obviously worrying about, senator, did nothing but just sat there holding it frivolously, then I am quite sure the court would act in those circumstances.

Senator Flynn: You can do it by ordinary powers, such as a police writ of seizure or by subpœna, because even if you have reasons simply to suspect a violation you can do that. So what is the difference if the man does not obey the order? What do you do?

Mr. Levy: But supposing it was all a mistake and the allegation was incorrect, then the man can straighten it out with us without having the police after him.

Senator Flynn: But you don't have to have regulations at that point; you just have to write to the man and say, "Come on, explain your case; otherwise we will have to use other means."

Mr. Levy: Except that this is at least the provision under the regulations of the law and you can say that the regulations require this.

Senator Flynn: I shall not insist further. But I am not satisfied with this.

Mr. Levy: Well, senator, I am just trying to explain that it is not as Machiavellian as it might seem.

Senator Laird: Well, with the power of appeal, I think I would go along with it myself.

The Chairman: You can argue, and I think I would do so, with the wording, but I do not think it is likely to be the source of discrimination against any citizens because there are too many remedies available to them.

Senator Yuzyk: Does this subclause (j) apply also to forged documents? I know one comes across cases of forged passports from time to time, but have there been any cases of forged citizenship certificates? Then, if there have been such cases, what is done about it?

Senator Laird: It must be regarded as an offence under some legislation. I should imagine it is covered by the Criminal Code.

The Chairman: Just simple forgery is in itself an offence, and that is in the Criminal Code.

Senator Connolly (Ottawa West): The uttering of forged documents.

Senator Yuzyk: But have there been any cases of this? I know there have been cases concerning forged passports, but have there been cases concerning forged citizenship certificates?

Mr. Nichols: Not that I know of, but here I should like to take a minute, if I may, to seek senators' advice. The large certificate which we now use does not contain a photograph of the person to whom it belongs. It simply has his name, his date of birth, colour of hair, colour of eyes and that is all. Yet it is lawful to use that document to obtain a passport or to cross a border or to do a number of other things. This worries me, because there is no doubt in my mind that it is a very easy thing to pass one of these documents to a friend or to a relative who happens to have the same colour of eyes and hair. And in this day and age even the colour of hair doesn't mean very much anymore. I am therefore considering that in the regulations we should require that only the miniature shall be acceptable as identification. This can be done by the very simple procedure of just talking to the passport people and the immigration people and requesting them to refuse these larger certificates as proof of identification.

Senator Laird: Does the wallet-size certificate have a picture?

Mr. Nichols: It is an exact replica of the larger one except that it has a photograph attached.

Senator Connolly (Ottawa West): What is the fee for that one?

Mr. Nichols: $2.00. So what I am considering is the idea of having the large certificate purely as a ceremonial document to hang on your wall or to put into your safety-deposit box and to permit only the miniature to be used for purposes of identification.

Senator Laird: That seems sensible to me.

Senator Connolly (Ottawa West): There are some people to whom $2 is an important factor, so why should you by regulation prevent them from using the larger document? By doing so you are depriving them of a quality and of a character, simply by regulation, that the spirit of the act really does not contemplate. Do you have to go that far?

The Chairman: For how many things is the larger document used? When applying for a passport?

Mr. Nichols: Yes.

The Chairman: In most other instances any other form of identification, even a gas station credit card, serves.

Senator Connolly (Ottawa West): A driver's licence very often serves as identification.

The Chairman: But my point is, how often in life would you use a citizenship certificate for identification purposes? When applying for a passport?

Mr. Nichols: Principally for that, Mr. Chairman, and for crossing to the United States.

The Chairman: What are they needed for when you are crossing to the United States? To establish you are a Canadian?

Mr. Nichols: Yes.

The Chairman: That is if you are not born here.

Mr. Nichols: Yes.

The Chairman: I am accustomed to saying to the immigration officer in the States, when he asks me where I was born, just simply, "Canada." Then they don't ask anything else. But I understand that if you say you were born abroad, then you have to produce a certificate, and that is when you should have the one with the picture on.

Mr. Nichols: I would think so.

The Chairman: But then that really is of concern to the Americans.

Senator Laird: But I still think that allowing the big certificate to be used for identification purposes opens up the possibility of abuse.

Senator Connolly (Ottawa West): Because it does not have a picture?

Senator Laird: Yes.

The Chairman: It certainly would be much easier to hand it back and forth.

Senator Lafond: I appreciate that there is a fee of $2 for the miniature if I seek it after getting citizenship, but in the case of a new applicant, is the miniature given to him when he gets the larger one?

Mr. Nichols: At the moment the large certificate is the presentation certificate, and if you want a miniature, you pay $2 extra. That could be reversed, or we could simply abolish the large certificate.

Senator Connolly (Ottawa West): That is what I was going to say. Why don't you get rid of the large certificate and just use the miniature? Then if somebody wants the large one, that one can be paid for.

Mr. Nichols: These are all solutions that have been considerd.

Senator Connolly (Ottawa West): Well, at any rate, you have the benefit of our thinking on it.

Senator Forsey: Mr. Chairman, I got rather lost in this last discussion. Is there some provision in here now which would enable the Governor in Council by regulation to deal with the matter we have just been talking about, or is there not?

Mr. Nichols: You may have noted, Senator Forsey, that I immediately withdrew the suggestion of making a regulations and said "by arrangement with Passports and Immigration."

Senator Forsey: I know you said that, but is there any provision contained in this that you could make a regulation?

The Chairman: A regulation could be made that all certificates except the large ones must contain a photograph.

Senator Forsey: I would think so. Could you by regulation adopt the suggestion of reversing engines, as it were, so that the large certificate would be paid for and the small ones with the photographs would be provided automatically?

Mr. Nichols: I would think so.

Senator Forsey: Presumably that could be handled under paragraph 26(b)

Mr. Levy: The minister prescribes the form under clause 27. I missed the first part of this, but I have a little difficulty in understanding how one could use the large certificate for identification purposes, because it does not contain a photograph.

Senator Connolly: (Ottawa West): It would not be sufficient alone, but it might be if it were produced together with another form of identification.

Senator Forsey: With a photograph.

Senator Laird: No.

Senator Connolly (Ottawa West): Perhaps with a photograph.

Senator Laird: That would cook his goose if he were using it for improper purposes, such as using the large certificate of another person and then producing a picture of himself, which would make the situation readily apparent.

Mr. Levy: It is an offence under clause 28(1)(b) to use a person's certificate for purposes of impersonation, in any event.

The Chairman: Are we not addressing ourselves to what is more properly a United States immigration concern? If they wish to pass a regulation providing that Canadians entering the United States must have their small certificate containing a photograph and decide to accept them without photographs, we should not be concerned.

Mr. Levy: That is true; we could make the tightest of laws and maybe no questions would be asked on the other side of the border.

The Chairman: Do we require the disclosure of the certificate on return to Canada? Do our customs officers require that that identification be produced on returning to Canada? I do not believe so.

Mr. Nichols: They could do so.

The Chairman: But they do not do it normally.

Mr. Nichols: No, but I cannot speak for them.

Mr. Levy: The immigration officer generally asks where a person lives and was born.

Senator Laird: I hope that advice is extremely helpful, Mr. Nichols.

The Chairman: It would really seem that although your idea is a good one, when we really pursue the question of when these are used apart from passport applications, it is never a concern to the Americans.

Shall clause 27(j) carry?

Hon. Senators: Carried.

The Chairman: Shall clause 26(k) carry?

Senator Forsey: I gather that in this instance the surrender and cancellation is an important difference from what appears in paragraph (j), if I am not mistaken. This operates, presumably, only after, in effect, conviction. It must be proven; it is not in the opinion of any one that he is not entitled, but it must be proven that he is not entitled.

Mr. Levy: This is the situation in which a person loses his citizenship under the earlier provisions of the act, such as in cases of fraud. It has nothing to do with losing the certificate.

Mr. Nichols: For instance, it would apply in the case of a change of name.

Senator Forsey: But it is not simply the opinion of an official where one has reason to believe, but it is a definite matter of fact.

Mr. Levy: And law.

The Chairman: Again, it is not revocation of citizenship, but only the cancellation of the piece of paper.

Mr. Levy: That is correct.

The Chairman: Shall clause 26(k) carry?

Hon. Senators: Carried.

The Chairman: Shall clause 26(l) carry?

Senator Laird: This paragraph bothers me, as this type of thing always does. It is extremely broad and when it is combined with clause 21 one can think of a number of situations in which I am afraid someone way, way down in the ranks could do something pretty horrible. Some of these people who are approximately at the bottom of the organization have a habit of throwing their weight around. The same thing happens, for example, when dealing with Revenue Canada. When dealing with those in the same league as our witnesses, it is fine, but when we get down to some little assessor we can face real problems. I am a little apprehensive with respect to the combination of paragraph (l) and clause 21.

Mr. Levy: If I may say this, sir, the power under subparagraph (l) can be used only for dealing with specific provisions of the act. Earlier provisions, for instance, contain the phrase "a person authorized by the regulations". That, without causing the necessity for another paragraph, would implement that and would authorize the making of such a regulation. I refer specifically, for one example, to one of the provisions which was questioned last Thursday. We have, for instance, in clause 5(2)(a) and (b) provision that: "an application for citizenship is made to the Minister by a person authorized by regulation". Provisions such as paragraph (l) can be used to make the regulations when included in the act is language such as "in accordance with the regulations". It could not be used to invent regulations for which there is no specific requirement in the act and it could not be used to sub-delegate. We will be dealing with delegation, I gather, when we return to consider clause 21, which was stood until we have completed clause 26. I hope at that time to be able to convince you, sirs, that there is no authority contained in this act to permit sub-delegation. The minister will have to authorize in writing each official or class of officials to whom he wishes to pass certain powers. These officials will not be able to pass those powers on to others. Paragraph (l) would not authorize any sub-delegation, but only the enactment of regulations required for specific purposes under other provisions of the act.

The Chairman: I do not see why, when a special provision is contained in the statute itself that the minister may provide regulations such as contained in clause 5(2), we then need such a much broader subparagraph as (l).

Mr. Levy: Clause 5(2) does not give you the power to make a regulation. Clause 5(2) says: "a person authorized by regulation." So you have to have a power to make a regulation, and the Governor in Council was given that power under (1). It covers that situation. Clause 5(2) is only descriptive. It says "a person authorized by regulation."

The Chairman: I thought it was worded so that the minister may make regulations for such and such. It is a person authorized by regulation.

Mr. Levy: It does not permit you to create all sorts of weird and wonderful regulations that are not specifically required under the act.

The Chairman: Again, you do not need the word "purposes":

> providing for matters necessary for carrying into effect the . . . provisions of this Act.

What may be bothering some honourable senators is the word "purposes," the purposes of the act to enable people to gain Canadian citizenship. I would think that under the word "purposes," regulations beyond one's conception could be passed.

Senator Forsey: If you are trying to provide for things like 5(2), why can't you simply, say, put (1) in those terms. Say "providing for —

The Chairman: Carrying into effect the provisions of this act.

Senator Forsey: Yes, but I mean specifically. You mentioned line two, and some others. I got lost at that point.

Mr. Levy: The standard language is "purposes" and "provisions," which is used in the existing act and a number of acts. I am not really a legislative draftsman and I would be in some difficulty to be able to assure that the word "provisions" by itself would be sufficient. For instance, in the case of 5(2), a "person authorized by regulation," a regulation is to fulfill that purpose. But I am not sure whether, in drafting—in fact, I have some doubt—that the word "provisions" would be sufficient to cover that. As I say, "provisions" and "purposes" is pretty standard procedure. Perhaps Mr. du Plessis could enlighten honourable senators further on that.

The Chairman: Senator Laird has to leave.

Senator Yuzyk: I have to leave also.

The Chairman: Senator Laird, before you go, even though we might carry on for a few minutes, we are obviously not going to finish this before lunch. I would like to raise the question of when we can continue.

The institution of the block system under Senator Bourget, as you recall, specifically endeavoured to prevent conflicts between this committee and Senator Everett's Committee on National Finance, almost the worst overlap between any two committees of the Senate being between those two.

Also, I would like to live up to the spirit of the gentlemen's agreement that we arrived at whereby we would sit on alternate weeks, and would try not to conflict with one another's sittings.

In the case of this week, we are impinging on the block system in that this is not our week for hearings of a normal nature. This, however, being a bill that has been referred to the committee, outside of our study of Canada-U.S. relations, it required some priority and therefore I arranged with Senator Bourget to sit this week at times when we would not conflict with Senator Everett's committee.

As Senator Everett's committee is sitting at 2 p.m. this afternoon and Legal and Constitutional Affairs at 2.30, we should really not, in the spirit of the new arrangements, sit this afternoon if we can possibly avoid it. This then becomes a difficult matter.

Senator Connolly (Ottawa West): Did he sit this morning?

The Chairman: No. That is why we were sitting this morning.

Senator Connolly (Ottawa West): Are any of our members members of the Standing Senate Committee on National Finance?

The Chairman: Quite a number are, but perhaps not members who are particularly interested in this bill.

Senator Laird: Senator Carter is a member of the National Finance Committee.

The Chairman: So is Senator Yuzyk.

Senator Laird: There is a problem with Bill C-58.

The Chairman: Yes, there is Bill C-58, where we have some overlap. It normally does not conflict, because it is on Wednesday morning, but now it is sitting extended hours.

Senator Laird: It is even sitting on Thursday.

The Chairman: The other problem is that on Thursday morning Senator Everett's committee is sitting again; so is the Standing Senate Committee on Banking, Trade and Commerce. So this rather confines us to tomorrow afternoon when the Senate rises and into tomorrow evening.

The only alternative to that—and this is rather serious—is that next Tuesday and Thursday have been allotted to this committee, so there is no question about our being able to sit on those days. But both of those days are at the moment slotted with important witnesses. One is the president of the Aluminum Company of Canada, and the other is the president of Noranda, and the president of the Mining Association of Canada. Both of those gentlemen have required some months of negotiation to fit their hearing in Ottawa into their timetable. If we lose them now, we have lost them until next fall. So I would very much hope that honourable senators would agree that we endeavour to conclude our hearings on this bill even by sitting tomorrow after the Senate rises or tomorrow evening.

Senator Connolly (Ottawa West): Why do we not sit today at 2 o'clock?

Senator Laird: I think we should sit at two even though it may conflict with the other committees.

Senator Connolly (Ottawa West): There is always a conflict of some kind. We cannot work it out absolutely.

Senator Laird: I have already arranged for the subcommittee on accommodations to look at a mock-up office tomorrow. I now have to leave. I will try to fit in with whatever you suggest, Mr. Chairman.

The Chairman: Senator Laird, before you leave, you would want to be at the National Finance Committee this afternoon?

Senator Laird: No, the Legal and Constitutional Affairs Committee at 2.30.

Senator Yuzyk: I am a member of the National Finance Committee. We are going through our final report. It is a very detailed study. I could leave for a short while, because I am not responsible for all sections, but there are some that I am interested in. So long as we can get a quorum, I think we should go ahead this afternoon.

Senator Laird: I will come here at 2 o'clock to make a quorum.

The Chairman: We will be adjourning until 2 o'clock, and I will advise Senator Everett. However, we can now go ahead.

Senator Macnaughton: Mr. Chairman, I have a suggestion on this difficulty. We may have a case before a judge, who says "Well, according to the technical provisions, you may be right, but according to the spirit and purpose of the act I still maintain that you are wrong." That is the reason for using the word "purpose." It is to give the judge overall jurisdiction and not to be hamstrung by a technicality.

The Chairman: I have expressed myself already as not liking this type of thing. I am sure others agree. By the same token, the answers of the officials are also quite straightforward and these things are in endless other acts.

Senator Connolly (Ottawa West): Especially in the tax act.

The Chairman: That does not necessarily make them right; but is this the place where we should tackle that particular problem?

Senator Connolly (Ottawa West): Mr. Chairman, we have had this so often in the Banking Committee on tax legislation, where the committee members object to it on the ground that it gives wide discretion to impose tax burdens upon people that perhaps are not contemplated by the act. It seems to me to be one of those perennial problems.

The Chairman: Senator Forsey, are your terms of reference in your other committee broad enough to tackle these things on a more general basis?

Senator Forsey: First of all, the mere fact it is in another act, or has always been done, or something of that sort, is not necessarily conclusive, to my mind.

The Chairman: It is one of the poorest of excuses.

Senator Forsey: Secondly, if you say, "Well, it is a perennial problem; it comes up in all sorts of acts. Is this the place to deal with it?" you can repeat that ad infinitum. Each time you get this possibly objectionable provision before you in some piece of legislation, you can say, "Well, this isn't the time to deal with it"—and it will never be the time to deal with it. Every time the same excuse will be made.

The third thing is that I simply cannot see why, if this is intended to cover certain specific provisions to which Mr. Levy referred, we shouldn't simply put in here a provision to read "providing for matters necessary for carrying into effect sections—" and then set out the sections. If this is what you are driving at, why not say so specifically?

Mr. Levy: I think one of your colleagues rightly pointed out something that I neglected to mention, that being that is has to be for the purposes and provisions of the act. So, that safeguard is built in. Apart from that, we could theoretically go through and modify paragraph (1), and on the next occasion the Citizenship Act is amended and there was another one of these "by regulation" provisions, we would again have to go back and modify paragraph (1).

I realize that is not much of an excuse. All I am trying to suggest is that what can be done under this paragraph is very limited. It is a standard provision. It cannot be used to create substantive law. It can only be used to make regulations for the purposes and provisions of the act that are set out and that require regulations. One cannot invent things. I suppose honourable senators will have to consider whether or not it is worth amending the bill for that purpose.

Senator Forsey: Mr. Chairman, I am inclined to suggest that perhaps we ought to stand over paragraph (1) until we have looked at clause 21.

The Chairman: I was going to make the same suggestion, Senator Forsey. I think there are one or two of these, like the question on the form of the oath, which we might not want to amend unless we are reporting the bill with a more substantive amendment, in which case these things can be tackled as well.

Senator Forsey: I feel that perhaps Senator Laird is not yet completely satisfied, because of the possible interconnection of this with clause 21. I still have some doubts on it myself.

The Chairman: We might stand paragraph (1) and press on with the bill, and then we can come back to the three or four things that are bothering us and deal with them all at once.

Senator Forsey: Yes, and specifically we can deal with paragraph (1) in conjunction with clause 21.

The Chairman: Yes. Clause 21 is the main problem.

Senator Forsey: Yes.

Mr. Levy: Do you wish to deal with that one now, Mr. Chairman?

The Chairman: I think we should press on through the body of the bill. We may pick out other things that we may want to deal with further, should we decide to amend clause 21.

Paragraph (1) of clause 26 shall stand.

Shall clause 27 carry?

Hon. Senators: Agreed.

The Chairman: Next, Part VII, clause 28(1)(a). Shall subclause (1)(a) carry?

Hon. Senators: Carried.

The Chairman: Shall subclause (1)(b) carry?

Hon. Senators: Carried.

The Chairman: Shall subclause (1)(c) carry?

Hon. Senators: Carried.

The Chairman: Shall subclause (1)(d) carry?

Senator Thompson: Mr. Nichols, does the term "traffics" in that context refer to one who is abusing —

Senator Connolly (Ottawa West): It refers to the buying and selling of certificates.

The Chairman: That is right.

Senator Thompson: We dealt previously with people who worked on a consultative basis. They would not be included in this?

Mr. Levy: No.

The Chairman: Trafficking in this sense is not unlike trafficking in drugs; it is the same use of the term.

Shall subclause (1)(d) carry?

Hon. Senators: Carried.

The Chairman: Shall subclause (1) carry?

Hon. Senators: Carried.

The Chairman: Next, clause 2(a). Shall subclause (2)(a) carry?

Hon. Senators: Carried.

The Chairman: Shall subclause (2)(b) carry?

Senator Forsey: That covers that forgery thing, incidentally.

The Chairman: Counterfeit certificates, yes. Shall subclause (2)(b) carry?

Hon. Senators: Carried.

The Chairman: Shall subclause (2)(c) carry?

Hon. Senators: Carried.

The Chairman: Does the whole of subclause (2) of clause 28 carry?

Hon. Senators: Carried.

The Chairman: Shall subclause (3) of clause 28 carry?

Hon. Senators: Carried.

The Chairman: Shall clause 29(1) carry?

Hon. Senators: Carried.

The Chairman: Shall clause 29(2) carry?

Senator Connolly (Ottawa West): This is a trial outside of Canada, is it?

Mr. Levy: It is an offence committed outside the country, Senator Connolly, with jurisdiction resting with a court in Canada.

The Chairman: Shall clause 29(2) carry?

Hon. Senators: Carried.

The Chairman: Therefore, clause 29 carries.

Next, clause 30. Shall clause 30 carry?

Senator Connolly (Ottawa West): Under clause 30, a time limit is set for prosecution; a three-year limitation period for prosecution is provided?

Mr. Nichols: Yes.

Senator Connolly: (Ottawa West): So you cannot go back more than a three-year period, even in respect of a gross fraud?

Mr. Levy: It depends on whether it is a summary conviction offence or an indictable offence. Those set out in clause 28(1) are summary conviction offences and would be subject to the three-year limitation. Those set out in clause 28(2), which are the forgery, the counterfeiting provisions, the more serious ones, are indictable offences, and there is no limitation period. Anything else would be regarded as less serious and subject to the three-year limitation period.

The Chairman: I believe there are limitations in the Criminal Code in respect of some indictable offences, and they may be caught under that statute.

Mr. Levy: It is normal to have a limitation on summary conviction prosecutions. I think the distinction goes back to the old days when we had felonies and misdemeanors.

Senator Macnaughton: Is there any change in the limitation period as between the proposed act and the present act?

Mr. Levy: It is three years under the existing law.

The Chairman: A further question on clause 30, Mr. Levy. Why does it not read, "shall not be instituted at any time after three years—"? It reads: "...may be instituted at any time within three years—" and it does not exclude it from being instituted at any time beyond three years. I know that is what is meant.

Mr. Levy: It does, because "may" is permissive; you cannot do it except in that period. It is just the drafting style of the Department of Justice.

Senator Macnaughton: It is the ordinary form.

Senator Connolly (Ottawa West): I forget how the limitation sections are drafted, but it may very well be that even the Statute of Limitations does not have this kind of language. In respect of limitations that are imposed, it is the positive or negative.

The Chairman: The civil limitations are in the positive. They state an action must be brought within three years. This does not say prosecution must be commenced within three years; it states it may be instituted within three years, or at any other time.

Mr. Levy: Section 48 of the present act, which was enacted during the 1967-68 Session, reads:

> Any proceedings in respect of an offence under this Act or the regulations that is punishable on summary conviction may be instituted at any time within three years after the offence was committed.

The Chairman: I still do not feel it is the best way of expressing it.

Mr. Levy: I think if we were drafting it again we would write it differently.

Senator Forsey: The implication is, "may not be instituted after three years."

The Chairman: Yes, that is the implication, but only an implication.

Senator Forsey: I am inclined to agree with the chairman; it would be better to put it t'other way round.

Senator Connolly (Ottawa West): Is this the kind of thing that is picked up on the revisions of statutes?

The Chairman: No. Here is a typical one. This is taken from the old statute, carried forward into this one and not cured on the way.

Senator Connolly (Ottawa West): I wondered, if this format is used in the statutes as they are going through currently, whether perhaps the phraseology used is looked at carefully at the time the statutes are generally revised, with a view to deciding whether this or the alternative that has been suggested is the format.

Mr. R. L. du PLessis, Q.C., Law clerk and Parliamentary Counsel: Having gone through a revision myself, I would say that certainly the general form is looked at. One of the attempts that was made in that last revision was to remove a lot of unnecessary "shalls". I think that "shall" should only be used where someone is commanded to do a specific thing. In this clause, no one is being commanded to take proceedings in respect of any offence. This is surely a decision that is made by the Crown in each case. My own view is that the "may" here is quite proper.

Senator Forsey: If you try to take proceedings after the three years the court would presumably hold, "You are told you can take it within three years. It is too late now."

The Chairman: I think a court would do that, but I still do not think the clause says you cannot do it after three years.

Mr. du Plessis: The word "within" is the key word there.

The Chairman: No, the key word is "may"; you may do it within that time and you may do it afterwards.

Senator Macnaughton: I am against you. Words must be given their ordinary meaning, and this is perfectly clear.

Mr. du Plessis: It does not say that it may be instituted at any time after three years; it says "within three years."

Senator Macnaughton: " . . .may . . . within three years."

Senator Forsey: It is only permissive, and the permission is limited.

Mr. du PLessis: That's it.

Senator Forsey: Isn't that about it?

Mr. du Plessis: That is the way I would see it.

The Chairman: There is no question about what it is meant to mean, anyway. Shall clause 30 carry?

Hon. Senators: Carried.

The Chairman: Clause 31. Shall subsection (1) carry?

Hon. Senators: Carried.

The Chairman: Shall subsection (2) carry?

Senator Forsey: Incidentally, there is a matter of law that I forgot to raise in the Senate. It is a matter of curiosity. As long as it is impossible for us to amend large parts of our Constitution without an act of the British Parliament, are we not legally British subjects, willy-nilly?

Mr. Levy: I am afraid that I may be falling into a subject which the honourable senator is much better equipped to discuss than I am. I know that we are not citizens of the United Kingdom and colonies. "British subject" does not mean that we are subjects of the Government of the United Kingdom.

Senator Forsey: No, quite.

Mr. Levy: It means, to me, that we are subjects of Her Britannic Majesty.

Senator Connolly (Ottawa West): You certainly are a subject of the Queen of Canada.

Senator Forsey: Yes.

Mr. Levy: Yes, we are. I think that the term in modern years has become somewhat ephemeral in the sense that it is taken to mean a lot more things than it really does. I notice that the senator quoted Sir John A. Macdonald and said, "A British subject I was born and a British subject I will die." I will say the same thing for myself. I do not really think that this bill tends to regulate that. This bill prescribes a status for other purposes.

Senator Forsey: I do not think it does, or can. I agree that the actions of the British Parliament, for example, have pretty well taken the stuffing out of the status of a British subject. In the old days, you could do all sorts of things. In the old days, when I went over to England, if I wanted to renew my Canadian passport while in England I could trot around to the Foreign Office and do it much cheaper than I could here, and I did.

Senator Connolly (Ottawa West): Senator Forsey, you say the action of the British government has changed it. I take it that what you are referring to—and I say this for the record—is the fact that the U.K. now has a citizenship act?

Senator Forsey: Yes, and there are immigration acts and other things. So, the things you could do formerly as a Canadian—or a Newfoundlander, as I was then—you could go to the United Kingdom and do all sorts of things simply because you were a British subject, and that was it. Now you would be "cabin'd, cribb'd" confined in a variety of ways by British law. So, the status of British subjects has now been largely emptied of substance.

The Chairman: It used to be that you wanted to remain a British subject for the additional advantage that a gunboat would arrive anywhere in the world if anybody touched a hair on your head. That scarcely happens now.

Senator Forsey: There are scarcely any gunboats left.

The Chairman: Yes, there are scarcely any gunboats left.

Senator Macnaughton: That is precisely what you mean in the last words of that paragraph, "citizen or citizen of the Commonwealth or both as the intent of such law may require." I have not the faintest idea what that means. I guess somebody else does.

Senator Forsey: It is a sort of a catch-all.

The Chairman: Sort of *mutatis mutandis* is what they are getting at.

Senator Forsey: Just to make sure nothing is left out; one of those basket things or catch-all things.

Mr. Levy: If I could use the vernacular, we do not want to shaft anyone inadvertently.

Senator Macnaughton: I don't think I will ask for an explanation at this time.

The Chairman: Does it not really mean, Senator Macnaughton, that the substitution of the words "either Canadian citizen and/or citizen of the Commonwealth" should be substituted for "British subject *mutatis mutandis*"?

Senator Forsey: I think so.

The Chairman: I think that is what it means. Does clause 31 carry?

Hon. Senators: Carried.

The Chairman: Clause 32, shall it carry?

Senator Forsey: Clause 32 is one of those delightful pieces of utter illogic which one finds in British institutions. A foreigner shall not be deemed to be a foreigner in this particular case. That is what it amounts to. The blighted Irish have made themselves foreigners but we are so kind that we say, "No, no, no, this is just pretty Fanny's way or pretty Paddy's way."

Mr. Levy: Or, when I was asked to explain this clause at one point, "the Irish are different," as far as this is concerned.

Senator Forsey: They do not deserve it.

Senator Macnaughton: If Senator Forsey votes for this, I will vote for it.

Senator Forsey: They don't deserve it.

Senator Connolly (Ottawa West): They do deserve it. Vive la différence!

Mr. Levy: It is a special status.

The Chairman: I have difficulty with that. What that means is, for our purposes, an Irishman is a member of the Commonwealth?

Mr. Nichols: Yes.

Mr. Levy: It means he has the advantages conferred by various statutes—referring to the British subject—and now, by this, will deem them to be accountable citizens and include the Irish.

Senator Thompson: There are a number of Irishmen who are British subjects, are there not?

The Chairman: Northern Ireland, yes.

Senator Thompson: I have a conflict of interest in this, but I am wholeheartedly in support of it.

Mr. Levy: In the republic too it gets very complex at times.

The Chairman: I was going to ask you if anyone has asked the Irish about this clause.

Mr. Levy: Yes. As a matter of fact, I remember at one point, quite a number of years ago, we had a representation from the Irish ambassador about a situation in one of the provinces with respect to the right to be a school teacher. I forget what was happening at the time. I forget the province. I forget the details, but it looked like they might not be treating Irish citizens the same as the other "British subjects" and he made very strong representations about that.

We checked with the embassy on this because we had in the existing law something which said, I think, the "Republic of Ireland" and it was drawn to our attention that that may not be correct. In fact, sure enough, it is now "Ireland." So, this provision was brought to the attention of the embassy and they corrected us on the short title.

Senator Thompson: Are we the only Commonwealth country that has this written into its Citizenship Act?

Senator Forsey: I think Great Britain has it. The status of Irish citizens in Great Britain is certainly provided for in some special way. I have seen references to it in connection with prosecutions against these Irish terrorists. I am pretty sure there is something in the British or United Kingdom legislation. Is there not, Mr. Levy?

Mr. Levy: I don't know.

Senator Forsey: I strongly suspect there is, from things I have seen in the English press.

Senator Macnaughton: What about the South Africans? They do not come in under this, do they?

Mr. Nichols: They are not part of the Commonwealth. I do not know what their law says.

Senator Macnaughton: That is the answer, then—they are not part of the Commonwealth.

Mr. Levy: If the South Africans consider themselves British subjects, then they would come in under this. If they do not, then they would not.

Mr. Nichols: I do not believe they do, but I cannot speak authoritatively.

Senator Forsey: The Pakistanis and Burmese and so forth do not. They have taken themselves out. The Irish have taken themselves out, but we say, "For our purposes, you have not". That is the sole exception, isn't it?

Mr. Nichols: Yes.

Senator Macnaughton: That is why I asked the question. The South African is not to be considered.

The Chairman: It would be less popular, I suppose, politically to put South Africa in the same basket. That is what it amounts to.

Senator Connolly (Ottawa West): The plain fact is that there is an anomaly in the act in respect of the citizens of Ireland.

Senator Forsey: And we all love it.

Senator Connolly (Ottawa West): And we are entitled to have an anomaly about the Irish.

Senator Macnaughton: Well, that is that!

The Chairman: Shall clause 32 carry?

Hon. Senators: Carried.

The Chairman: Clause 33, subclause (1), paragraph (a).

Senator Thompson: I do not want to delay the proceedings, but I do not know why this is in the Citizenship Act.

The Chairman: I was about to ask the same question. Perhaps it has to do with subsequent clauses, but unless you want to take people's rights away from them specifically by statute, why do you have to say specifically that non-Canadians may own property in Canada?

Mr. Levy: This provision has been in the Citizenship Act since 1947 and in the naturalization acts before that. The reason is simple. At common law an alien has no right to own property. This is to give him that right.

The Chairman: So we have always had that in our statutes.

Mr. Levy: Well, for a long time; since they let aliens own property.

The Chairman: That is interesting. Shall paragraphs (a) and (b) of subclause (1) of clause 33 carry?

Hon. Senators: Carried.

The Chairman: Clause 33(2).

Senator Connolly (Ottawa West): Rather than looking at that verbiage, Mr. Chairman, perhaps we should have Mr. Levy say what the effect of it is, because there was a long discussion over this in the other house.

The Chairman: I believe this is where Mrs. Reed comes in. She has been patiently sitting here for our two days of deliberations. Is it not your turn, Mrs. Reed?

Mr. Levy: Mrs. Reed is our counsel.

Senator Connolly (Ottawa West): Okay, that is good.

Mrs. Barbara Reed, Constitutional Adviser, Department of Justice: What it really does is to empower the provinces to regulate ownership of land by non-Canadians. Subsection (1), as Mr. Levy pointed out, overcomes a common law disability that aliens had with respect to the owning of property. Under our Constitution it is the federal government that has the right to legislate with respect to aliens, and naturalization of aliens. The provinces, however, of course, have the right to legislate with respect to property and civil rights.

Senator Connolly: What is the subsection in section 91?

Mrs. Reed: It is section 91(25), I believe.

There has been quite a bit of concern expressed by the provinces. Some of them, at any rate, have expressed the view that they would like to pass regulations with respect to ownership of land by non-Canadians, particularly farm land in certain provinces; but because of section 91(25), and the federal government's legislative authority with respect to aliens, it has been felt that any legislation, or any regulation rather, that they made, limiting or regulating foreign ownership of land, could be declared unconstitutional. Section 33, therefore, which was the old 24, has now been amended by subclause (2) and subclause (3) to allow the provinces room to regulate foreign ownership of land if they wish to do so. That is essentially what they do. They say, essentially, that the lieutenant governor in council may regulate foreign ownership of land subject to certain conditions, those conditions being set out to the effect that they cannot prevent landed immigrants from owning land, they cannot prevent consulates or consulate offices from acquiring property in the province, that in so regulating they cannot conflict with or hinder any international legal obligations Canada may undertake, and if a determination has been made under the Foreign Investment Review Act by the Foreign Investment Review Agency, and cabinet has approved such a determination and said that such-and-such an investment is for the significant benefit of Canada, the province cannot, by this delegation of authority, contradict, undermine or defeat that decision. Apart from that, they are being given authority, if they wish to do so, to regulate ownership of land by non-canadian.

Senator Connolly (Ottawa West): In respect of their dealings with aliens, that underlines everything you say, does it not?

Mrs. Reed: That is right.

Senator Connolly (Ottawa West): May I ask a further question to clarify this a little more? I understand that there is at least one province, and perhaps more, that has restricted the sale of land, one way or another, in respect of ownership by non-residents.

Mrs. Reed: That is correct.

Senator Connolly (Ottawa West): That, of course, could apply not only to aliens but as well to Canadians.

Mrs. Reed: That is correct.

Senator Connolly (Ottawa West): These sections here will not defeat the purpose of provincial laws enacted in respect of non-residents of the province?

Mrs. Reed: No, they will not defeat those provincial laws. These provisions give the provinces an alternative. If they are concerned about foreing ownership of land, and they feel they cannot single out non-Canadians and regulate them, they may then move in orfer to say, "Well, we cannot do that but, as the Supreme Court said in a decision last year with respect to Prince Edward Island, we can limit ownership of land within the province by any person that lives outside the province."

Senator Connolly (Ottawa West): For non-residents.

Mrs. Reed: Yes. For example, for Canadian citizens living in Ontario, vis-à-vis Prince Edward Island. This amendment gives the province the option of saying, "If we are concerned about the foreign ownership of land, we do not need to regulate on the basis of province of residence. We can single out non-Canadians, or aliens, if we wish to do so." It gives them the option, and we hope some encouragement to do so, of moving to regulate non-Canadians rather than non-residents; but it does not defeat the provincial legislation.

Senator Connolly (Ottawa West): This is the point I am coming to. I take it that there has been some feeling that restrictions on the ownership of land in legislation passed by a province or provinces in respect of non-residents contains an element of unfairness in respect of Canadian citizens other than residents of that province, and that this provision here might be conceived as an opportunity for those provinces to change the legislation and, instead of restricting the ownership to residents, they may say that this restriction is only applicable to aliens.

Mrs. Reed: It sets up that alternative. In all fairness, I think that some provinces, and Prince Edward Island is an

example, are very concerned not just with ownership of land by non-Canadians, but with the ownership of land by people not resident in the province. They really see the same problems and difficulties arising from non-resident ownership when the person concerned lives in Ontario or when he lives in New York. So the option will be there for those provinces to consider their objectives and difficulties and how to overcome them.

Senator Connolly (Ottawa West): But Prince Edward Island may be a special case.

Mrs. Reed: It is so small, and there is so very little crown land left there. I think there is almost none.

Senator Macnaughton: Let us assume the Foreign Investment Review Act gives authority to a corporation to go ahead and buy land and then under this section the Lieutenant Governor in Council says, "No, you are not an effective corporation or association and we won't allow you," who wins out in that situation?

Mrs. Reed: The Lieutenant Governor in Council cannot prevent, under this regulation, a foreign corporation that has been approved operating in the provinces.

The Chairman: But it could do so under the existing legislation?

Mrs. Reed: Let me put it this way. The corporation comes to the foreign investment review agency now and wants to make a transaction regulated by the act—it wants to make an acquisition or to establish a business. It gets the approval required on the basis that it will be of significant benefit for Canada. But it still has to go to the province and abide by its zoning laws, its mortmain laws, its subdivision laws—all the regular land use laws of the province that could be applied to prevent location in one area or another. But the thing the province cannot do, at present, is to single out that corporation merely because it is foreign owned and treat it differently from anybody else. Now the authority given by clause 33 will allow to the province this added power. It retains all the other power it has with respect to land use, zoning, licensing and so on. Clause 33 is the added power to single out a corporation for special and, presumably, restrictive treatment merely because it is foreign owned. However, the section provides that the power cannot be used to undercut.

Senator Macnaughton: Where is that provided?

The Chairman: I believe it is in subclause (6)(e).

Mrs. Reed: Yes, it is clause 33(6)(e).

The Chairman: But you said that under this an Order in Council could be passed affecting only one company.

Mrs. Reed: Yes, it could.

The Chairman: I have not yet had time to read this with care, but elsewhere there is provision that the province in using these powers must do so without discrimination as between different nationals and different countries.

Mrs. Reed: That is correct; that refers to the fact that regualtions could not provide that no American company could own any land here but all German companies could. Such a situation would create problems in international law with respect to discrimination.

The Chairman: But do you say that regulations could be passed with respect to one particular company?

Mrs. Reed: Although it speaks of regulation, the clause refers to administrative authority.

The Chairman: Which clause is that?

Mrs. Reed: The granting clause, 33(2).

Senator Macnaughton: Clause 33(6) provides that subsections (2) and (3) do not operate so as to authorize—

The Chairman: Honourable senators, the time has passed very quickly. We suggested at noon that we would continue for half an hour and we have gone for 40 minutes. As we have agreed to reconvene at two o'clock, I suggest we should now adjourn and some of us may read these clauses a little more carefully during the luncheon period.

Senator Macnaughton: Mr. Chairman, this is a difficult clause and we will probably have to go through it all again unless we complete it now.

The Chairman: I would be concerned that if we contiue now it would take another half hour. I certainly would like to read through it quietly to get the gist of it.

Senator Thompson: This is a section with respect to which Senator Greene made a plea for special consideration in the Senate.

The Chairman: Yes; I do not think we will complete it in a hurry.

Senator Macnaughton: Mrs. Reed is so concise and knowledgeable, I was hoping she could assist us.

The Chairman: We will adjourn now until two o'clock, when we shall meet in room 256-S.

The committee resumed at 2 p.m.

The Chairman: I call the meeting to order and we will continue with the evidence we commenced this morning.

We come back now to section 33(2). We were having a general discussion relative to it without dealing with individual subclauses. Would the committee be agreeable to starting with the individual subclauses?

Hon. Senators: Agreed.

The Chairman: Subclause (2).

Senator Macnaughton: Mrs. Reed this morning explained the purpose of this subclause.

The Chairman: If honourable senators do not have a question concerning subclause (2), I would like Mrs. Reed's observations on this point:

> The Lieutenant Governor in Council of a province or such other person or authority in the province as is designated by the Lieutenant Governor in Council thereof is authorized, subject to subsection (6), to prohibit and annul —

The word I have underlined is "annul".

> — or in any manner restrict the taking or acquisition directly or indirectly of, or the succession to, —

I have underlined the words "succession to".

> — any interest in real property located in the province by persons who are not Canadian citizens or by corporations or associations —

et cetera. I am not concerned with the Lieutenant Governor in Council passing regulations which would prohibit the taking or acquisition of land. That is what the object is. You can there arrest that taking or acquisition in the act of it taking place, so that the person does not acquire the land. But to annul a succession, is something different. If I have a will leaving land in British Columbia to a beneficiary in that will, and that becomes a succession, and that is annulled, does that mean voided, that you do not thene the land sold and the proceeds of that sale go to the beneficiary under the will?

Senator Laird: I can give you a personal example. I own some real property and I am married to a girl who is an American and is still an American citizen. Cannot I leave her that property?

The Chairman: Does she lose the property. If you leave it to her in the will, is the bequest annulled so that it goes into the residue of the estate?

Mrs. Reed: The bequest itself would not be annulled, but the taking of acquisition by the beneficiary would, or could be, if a province decided to regulate in such a way as to police or review successions to property in wills—in the future. They cannot upset, under this legislation, any land that is already owned by non-Canadians, but they could, under this section —

Senator Connolly (Ottawa West): If they legislate?

Mrs. Reed: It is not so much a legislation as it is really a delegation of administrative authority to the Lieutenant Governor in Council. That is the distinction. Assume someone is left a bequest in that way, the province could request that that person dispose of it or sell it to a Canadian citizen within a certain length of time.

The Chairman: That is what you or I would like to see happen. Can you point that out to me in words?

Mrs. Reed: What can be annulled is the taking or acquisition of the title. I would assume that you would apply your law of wills so that you would follow through, and the person to whom the land was bequested would get the benefits from the sale of that property.

The Chairman: As I read it, it says that subject to subsection (6) the Governor in Council is authorized to annul the succession to any interest in real property.

Mrs. Reed: That is right. It could prevent a person under a will taking title to property that had been left to him under the will. But the beneficiary, I do not think, could be prevented from getting the benefit of a sum of money —

The Chairman: Why do you say that?

Mrs. Reed: Where would the title to that property go?

The Chairman: Into the residue of the estate.

Mrs. Reed: Oh, I see what you are thinking about. I see what you mean. It is not the bequest, it is not the will that is being annulled; it is the succession.

The Chairman: You don't have to annul the will; you are annulling the succession.

Mrs. Reed: But the regulation would have to annul successions. It would have to annul bequests in wills or upset bequests in wills. It will not do that, but it will prevent a beneficiary acquiring title to the property. But I do not think it would prevent the bequest itself, in terms of the relationship of that beneficiary to the other beneficiaries in the will, or the residual legatee in the will, *inter se* within the will itself, from operating under the legislation.

The Chairman: The word "annul", to me, is tantamount to the word "void." The difference between a divorce and an annulment is that an annulment decrees that the marriage never took place. Here we have an annulment of succession. You are saying that under a will or intestate there is a succession, and that succession is annulled.

Senator Connolly (Ottawa West): As I read this, this section is enabling legislation. The annulment, as you describe it, would not take place until the Lieutenant Governor in Council took —

The Chairman: Oh, I quite agree.

Senator Connolly (Ottawa West): This legislation does not do it. I may be simplistic about this, but it seems to me that what we are purporting to say through this section is that, if the province wants to take action in this respect, it can take jurisdiction to prevent an alien acquiring title to a property whether it comes by deed, gift or will, or any other way. They would have to legislate in the broad sense of the word before it is done.

Senator Laird: The only solution I can see to my personal problem is to pass on to my reward in a hurry!

The Chairman: The reason I have grave difficulty with this—and I have given a speech in the Senate on this—is that I, for one, do not trust the provinces one little bit not to pass confiscatory legislation. Many examples exist of abhorrent legislation passed by the provinces. They do not have to be as careful as the federal authority in terms of the draftmanship of legislation. One of the reasons that the

federal authority has to be careful, is the existence of the Senate.

Senator Forsey: Besides, as Mr. Justice Riddell said in the Florence Mining Company case, "The maxim 'Thou shalt not steal' does not apply to the legislature."

The Chairman: That is correct. There have been many examples of that in provincial legislation. I do not know whether the federal authorities should open a door inviting them to do so.

Senator Laird: Mr. Chairman, I think Senator Connolly's point is whether we can stop the provinces.

The Chairman: I suppose if they wanted to do this, they would simply pass the appropriate legislation.

Senator Connolly (Ottawa West): The provinces can do this now in respect of residents, and the Supreme Court has told them so.

I am the sponsor of the bill in the Senate, but I am not here to advocate the bill. I am simply putting it as I see it. I think this opens a door. It says to the provinces, in effect, that the federal authority is going to give jurisdiction to the provinces in respect of title to real estate, and the provinces can legislate in respect of alien holdings.

Senator Laird: Exactly. Is it not really in the same boat as off-track betting? The Province of Ontario has been after the federal government to amend the Criminal Code to enable the provinces to bring in, by provincial legislation, off-track betting. It is the same deal.

Senator Forsey: This is really an example of administrative delegation, isn't it?

Mrs. Reed: Exactly.

Senator Forsey: We are delegating this part of our jurisdiction over aliens to the Lieutenant Governors in Council of the provinces.

Mr. Levy: The provinces could do it, in any event, with respect to residents.

Senator Forsey: Yes, but not quite in the same way as under this provision.

Mr. Levy: It is not the same distinction. The Lieutenant Governor in Council would have to do so with respect to aliens as opposed to residents.

Mrs. Reed: Dealing with the question of wills, all this does is to authorize the province, not to expropriate, not to take the property, but it authorizes the province to control a class of people to whom land, real estate, can be conveyed. I do not think it is susceptible to the interpretation of interfering with wills of people, as you suggested. For one reason, the law of wills is very much a matter of property and civil rights and, therefore, under our Constitution, a matter of provincial jurisdiction. I do not think we could interpret this clause to have the effect of changing the relationship *inter se* in a will between beneficiaries.

The Chairman: I disagree with that. What I am concerned about is not that this section accomplishes that in itself; but what will happen is that provincial legislatures will take this legislation and will parrot it, very probably, and in parroting it they will open a door. We are setting a very bad example in the type of wording that has been used.

Senator Laird: Mr. Chairman, does it not go even further than that? After all, the federal authority has jurisdiction over citizenship. We are legislating in respect of citizenship.

The Chairman: I think Mrs. Reed's point is well taken, Senator Laird, that the provinces, without this clause, could do all of these things, except they could only do so in respect of non-residents of the province.

Senator Laird: Exactly.

The Chairman: That would include Canadians as well as foreigners. This clause provides a mechanism whereby the provinces can visit these deprecations on foreigners only.

Senator Laird: That is right. The federal authority has control over citizenship. That is why I do not even like to encourage those characters by opening up the one door that was closed.

Senator Forsey: If I were a member of the committee, I would move to strike out the words "and annul." That seems to be what, in effect, Senator Laird and Senator Connolly are suggesting might be a possible course of action.

The Chairman: Yes, to prohibit or in any manner restrict the taking or acquisition.

Senator Connolly (Ottawa West): I think Mrs. Reed has a point.

Senator Macnaughton: So do I.

Senator Connolly (Ottawa West): If an estate is coming into being, you either have an executor or an administrator. If you have a piece of land that has to be conveyed and the executor or the administrator, presumably, or perhaps the heirs, if there is not going to be an executor or a administrator, agree to transfer, in a certain way, then they must be careful as to who it is they transfer the land to. If it is an alien and there is a provincial statute prohibiting such transfer, then the transfer would be annuled.

The Chairman: If we just prohibited such a transfer, the land registry could not accept it, but it would still be the alien's inheritance, or succession, within the estate. The estate could say that although title cannot be passed to the alien, the property will be sold and the proceeds go to the alien. My concern is with the word "annul." It seems to me that a request becomes a non-bequest.

Mrs. Reed: I do not think so. As I say, it is the taking or acquisition that is being annulled. The only effect "annulled" adds to "prohibit" is to catch this type of transaction: if the provinces act to prohibit or restrict the taking, and someone slips through that restriction, or slips through those regulations, then the province needs some authority to catch that person who has evaded the regulations. That is the purpose of giving the provinces the power to annul.

The Chairman: That is one of the two purposes of using the word "annul": firstly, you may annul the taking or the acquisition of property; you may also annul the succession to property.

Senator Connolly (Ottawa West): That may arise out of operation of the law. For example, I can conceive of a situation where a will devises a piece of property to a given

individual and there is a vesting at the moment of death. You may then have to go back, if you are going to have this legislation effective, and annul that vesting.

Senator Laird: That is right.

Senator Connolly (Ottawa West): We do not have the authority to do that. This is a matter of property and civil rights.

Senator Laird: That is right.

The Chairman: That is a good point. There could be many estates in existence at the moment where there has been a vesting but not yet a transfer to the beneficiary.

Senator Connolly (Ottawa West): Yes.

The Chairman: There could be income going to a life beneficiary, but a known vesting for the future, which could not take place if these regulations were passed.

Senator Connolly (Ottawa West): "Annul" contemplates the vesting taking place and then being divested. That is what the word means, to me.

Senator Macnaughton: If you continue to read, it states, ". . . any interest in real property located in the province". So that if by some method party "A" has sold to party "B" and is discovered by party "C", and it is an alien who has disposed of property or who holds property in a province, then you may want to annul the whole proceeding.

Mr. Levy: If I might interject, it is not beyond the realm of possibility that a person in Germany might own a piece of property in Ontario and, by a legal instrument which might be perfectly valid under German law and only need to comply with registration formalities, and so forth, in Ontario, devises that piece of property to another person in Germany, or sells it to him. As Senator Connolly pointed out, by operation of law the vesting might have taken place and you would have to backtrack on it, otherwise you would have no way of getting at it.

Senator Laird: I do not like it, Mr. Chairman, and that is my last word.

The Chairman: I suppose the answer, Senator Forsey, to this problem is that Canadians have no protection in their right of property anyway, and this just confirms the fact.

Senator Forsey: Except that it is, as somebody said, opening a new door. There is another point I should like to raise, which might merely display my ignorance. It is a point raised with me by somebody who knows more than I do. What about intestate estates, where the chap dies and does not leave a will? What happens then? How is that affected?

Senator Connolly (Ottawa West): There could be a vesting in the heirs.

The Chairman: I think that would be easier, because there the administrator could bring in and convert into money all the assets of the estate. Then it would go by succession and the money would flow on to the beneficiaries. What I am concerned about is the specific bequest of Blackacre to Smith and the bequest becomes annulled.

Senator Forsey: Quite so. I wondered about that matter.

The Chairman: The other way would be easier.

Senator Forsey: The other way would be all right.

The Chairman: Yes.

Mr. Levy: Perhaps I might add something. I have had some experience in private practice; I spent five years in the private practice of law with a firm that did a lot of real estate work. I would point out that in a situation where a piece of property, Blackacre if you like, was willed to somebody, and in the normal course of the administration of an estate the will gets on the title to the property, whether it is under the registry system, under a land title system, or, I suppose, in Quebec the notarial system, then no prudent purchaser of that property will complete the purchase with any clouds or blocks on the title. The person to whom it was willed would have to be settled with. They might not be able to take over, occupy and use that property, because the province would not allow it. As I see it, it is like taking over that person's right, because you would have to get that person to sign off his or her interest, and I do not see how from a practical point of view you could get rid of that person.

The Chairman: I cannot agree it is analagous myself. It is similar to a *lis pendens*. If the bequest was held by a court not to have taken place because it was annulled, then the *lis pendens* would be removed forcibly by the court.

Senator Connolly (Ottawa West): If it is a court order, yes. I think Mr. Levy is talking about the situation where there was no court order.

The Chairman: There would be no release pending the determination.

Senator Connolly (Ottawa West): Notice would arise out of the will, there would be no court order, therefore you would have to have the release from the beneficiary.

The Chairman: But you would not need to have the release if the court ruled the beneficiary never succeeded to the property because the bequest was annulled.

Mr. Levy: The point you are trying to make is that that is not what this does.

The Chairman: I don't want to pursue the matter any longer, unless other honourable members do.

Senator Connolly (Ottawa West): It is the most interesting point in the bill from the point of view of law.

The Chairman: I would simply say that I am not the slightest bit sanguine about provinces not having the slightest compunction about doing this sort of thing, and in fact welcoming the opportunity. They would simply look at this and say, "Lovely. We will use those exact words." I do not like to be making that offer to them. Other than that, it is not our business here. It is really up to the citizens of the province to control their provincial government and not have regulations passed under this clause which would result in injustices.

Senator Connolly (Ottawa West): Are you telling us, Mr. Chairman, that you are in favour of opening the other door?

The Chairman: No. I would like to see the legislation so carefully framed that the succession of land could not take place, but that would not be an annulment of that bequest, the beneficiary would receive the value of land on a public sale.

Senator Forsey: In a sense, what the chairman has said is perfectly true; it is not our business to protect the people

of a province from the actions of their own government. On the other hand, do we want to give provincial governments encouragement or open this extra door for them? It may be our responsibility to say whether we should give them the extra encouragement or not. We cannot interfere with their jurisdiction, but in this particular instance we are, in effect, not conferring upon them legislative jurisdiction, but we are by administrative delegation making it possible for them to do something on a slightly different basis. At least, this appears to be the situation, as I understand it, from the discussion that has gone on. Do we want to take that responsibility of opening that extra door?

Mr. Levy: We had regarded this as encouraging them not to legislate in respect of other Canadians. If they were concerned about this problem of absentee ownership, at least they would direct it to aliens and non-residents of Canada.

Senator Forsey: I know what the intention was, but I wonder if their actions outran their intentions a little bit here.

The Chairman: What you are saying is that you are confining deprecations that we envisage might occur.

Mr. Levy: This would be regarded as less objectionable in some quarters.

The Chairman: I do not agree at all, personally.

Mr. Levy: At least it would not have the effect of balkanizing the country.

The Chairman: I am not against the principle of the clause. Should we stand that for the moment?

Mrs. Reed: Could I add this? I really do not see your concern. The authority that is delegated here in regulations made by the Lieutenant Governor in Council will come to the attention of the Joint Committee on Regulations and other Statutory Instruments to be approved. If regulations are made, the Lieutenant Governor in Council in this case is acting as a delegate of the federal government. Any regulations they pass will be vetted here.

Senator Forsey: Vetted, yes, but all we can do is report to the two houses and say, "We think this is *ultra vires*," or we can say, "We think it is an unusual use of the power," or we can say, "We think it is trenching unduly upon the liberties of the subject," or whatnot. We do not have any power to annul anything like that.

Mrs. Reed: No, but then you have to ask what sort of authority is being granted to the Lieutenant Governor in Council by this clause. We are not saying by this clause that the Lieutenant Governor in Council may upset wills or may annul bequests in wills. What we are saying is that they may prohibit, restrict or annul acquisitions of property, the taking of property and the succession of property. The way "succession is used in that phrase is almost synonymous with saying, "taking" or "acquisition." We are not talking about succession in the way that term is used in the technical sense in a will. We are talking about succession as comparable to or synonymous with "taking" or "acquisition." The authority granted is the authority to require the transfer. It is not authority to upset the bequests of a will. I do not see how a province could under that clause say, "Anything in your will that you leave to So-and-So is a null bequest." There is just no authority given to them in that clause to do that.

The Chairman: You have your views. If that is the interpretation to put on them, those words are extraneous.

Senator Forsey: Mrs. Reed says it is not succession in the ordinary technical sense of the term. If you look at the French version it says:

> par quelque mode que ce soit, notamment par dévolution successorale . . .

Senator Macnaughton is a civil lawyer. Is that the "expression consacrée" in French?

Senator Macnaughton: In English this is what I read, taking the succession to any interest in real property. That is your point, is it not?

Mrs. Reed: Yes.

Senator Macnaughton: It is only real property.

The Chairman: It is nothing to do with other land.

Mrs. Reed: It is registered.

Mr. Levy: It is registered on title.

Senator Forsey: It is succession in the sense in which that term is used in the law of wills.

Mrs. Reed: I would say in English it would be a succession, if it was a gift. It has a general meaning of basically "transfer," I suppose.

Senator Macnaughton: You have the same words in French, "d'intérêts dans des biens immobiliers situés dans la province." Those are exactly the same words.

The Chairman: The word "prohibit" applies to taking or acquisitions, quite properly, and the other way of conveying land may be, if you do not do it by acquisition or taking by succession. Prohibiting the succession might be more arguable.

Your point, the word "null" is put in there and does not apply to anything else but the succession. So, it is to prohibit taking, acquisition, and annul succession. I do not even object to annulling successions. I object to it not being specific enough to say, however, in annulling that succession the beneficiary is entitled to the equivalent of the sales price, or that that property will then be sold. However, I am not going to stick on that because it is up to the provinces to do their legislation properly. I think we have invited them to do a very nasty bit of draftsmanship, which I bet anything they will do.

I come from a province where the recent government passed a statute which simply said that all of the leases entered into by the government in a given situation, of which there were many, all of such leases that were not renegotiated within 24 months would be deemed to be null and void. Some of them were 30 and 40 years leases, under which millions of dollars had been spent on development. So, you can see my concern in this type of invitation being extended to the provinces where there is no constitutional authority or power to stop them, other than the federal power of disallowance which the federal government chooses not to exercise.

Mrs. Reed: Those were government property leases?

The Chairman: They were leases for the Vancouver Pacific National Exhibition, which is the equivalent of the C.N.E., in Toronto, and some were 10, 20, 30-year leases and people built racetracks on the basis of this tenure. The

government said; "They will be renegotiated, and, if not, they will be terminated"—confiscation of property. It was never proclaimed because I got some headlines in British Columbia advocating federal disallowance for that particular section of the bill. Senator Lawson, as a labour union leader, made a public speech in Vancouver saying that was fine, and he could just tear up all his labour agreements. That sufficiently backed off the government.

However, that is a slight digression on my part but it will give you some background as to why I am concerned about this particular matter. I would be leaning over backwards, providing the wording were the other way around, if there were any such prohibition, or annulment which resulted in anybody being denied a property, or that they should receive money the equivalent of that property on public sale, et cetera, could be written in here. However, I am in the hands of the committee. Is subclause (2) of clause 33 carried.

Senator Connolly (Ottawa West): It is very easy to say "carried" but in view of what you have said, Mr. Chairman, and as sponsor of the bill, I do not want to be attempting to railroad or engineer any part of it through the committee. Is it your intention to stand it and discuss it further?

The Chairman: Senator McElman has not been here today but we do have other things, Senator McElman, including a substantive provision in section 21 standing at the moment and maybe we could stand this. As I said on one or two other items that we have stood over, if we were to report the bill with amendment, then possibly we would try and tidy up other things which would not in themselves warrant amendment, such as the variation in the oath, and that sort of thing.

Therefore, maybe we could stand this, and if we find that we do not amend the bill on a substantive matter we will then decide that this, like other matters, will not be sufficient to warrant an amendment in themselves and we will adopt them.

Senator McElman: I would start out as Senator Grosart often does, "I am not a barrister, but—".

Subsection 2 says: "subject to subsection (6)", are there any exceptions in subsection (6) that look after the problem?

Mrs. Reed: None.

The Chairman: We agreed earlier that that did not really help us in this discussion.

Senator Macnaughton: It does not apply.

The Chairman: we are standing subsection (2), then, for the moment.

Mrs. Reed, there was another point raised in your answer to a question posed which I found interesting. I read this section as, in a federal statute, which I suppose cannot amend the B.N.A. Act—or does it purport to do that? Maybe it is in a sense designed to try to do that. I read that as saying that the provinces could pass an act and to that act there would be regulations and so on. Are you suggesting—and this is something I gathered from something you said—that the Lieutenant-Governor in Council of a province, or such other person, can pass regulations on this subject, and those will become regulations to the statute?

Mrs. Reed: That is right, in a sense. We could not do it, the first way.

The Chairman: I am coming closer to your point now.

Mrs. Reed: We could not authorize the provinces to pass legislation regulating, because that would be an amendment to the B.N.A. Act. What it is doing, instead of setting up a federal board and calling it the foreign ownership of land board, and saying the board shall regulate the foreign ownership of land, it is saying the Lieutenant-Governor in Council of the province —

The Chairman: As a designee under this act, to pass regulations under this act?

Mrs. Reed: That is right.

The Chairman: And that would apply to his province only?

Mrs. Reed: That is right. What you are doing is delegating what we called administrative authority, not legislative.

The Chairman: Are there any other examples in our legislation of such a mechanism?

Mrs. Reed: I think we do under the Criminal Code, with respect to lotteries.

The Chairman: That is a good example, yes. I am afraid that in clearing up that point you have made me even more concerned about this. These are now going to be federal regulations to a federal statute that I will be concerned about.

Senator Connolly (Ottawa West): Passed by a provincial government with—

The Chairman: With this door open.

Mrs. Reed: Drafted by a provincial government.

The Chairman: But we do not have any veto on this, do we?

Mrs. Reed: I guess they have to be approved by the Department of Justice.

The Chairman: Where does it say that?

Mr. Levy: In the Statutory Instruments Act, they have to go through the Justice procedure to be approved as to compliance with the Bill of Rights and not to be any unusual exercise of power and so on and so forth. They will go to a committee chaired by Senator Forsey and Mr. McCleave, after they are enacted.

The Chairman: Perhaps there are some protections there which I have not thought of.

Mrs. Reed: The real concern about what the province can do here is centred on the scope of authority. That is the real problem with which the section is dealing, the scope of the administrative authority that is being granted. Looking at that, I think there is no way, in my opinion, that you can say that we are giving the Lieutenant-Governor in Council of a province the authority to interfere with wills, to upset beneficiaries.

The Chairman: But you can frustrate wills. It is a question of frustrating. However, that is most helpful. Thank you.

Senator Connolly (Ottawa West): The neat point that you have just developed here was not raised in the com-

mittee of the other house, was it? I do not think you had this discussion.

Mr. Levy: No, we did not.

The Chairman: Subsection (2) still stands. We go now to subsection (3). This again is more regulations under the same thing, regulations to this act.

Mrs. Reed: That is right.

The Chairman: Perhaps we should deal with it subclause by subclause.

I would be very interested in a little more detail from the witnesses as to what mechanisms are used to control regulations. If the province, simply using these very broad powers, came up with a set of regulations and said, "Here they are. These apply to our province; these are the regulations that we declare under this section of the act which you have passed," what powers exist for us to go through those regulations and pick them apart and say, "Yes, but this is bad wording, or that is ambiguous"? Let us say we came to a point in the regulations where they were going to result in deprivation of someone's property rights, which is a provincial matter, what are the mechanisms by which we can alter those regulations or deny them the right to substantively change them?

Mr. Levy: May I read from the Statutory Instruments Act?

The Chairman: Please do.

Mr. Levy: I should preface this by saying that I do not purport to pass myself off as an expert on this. I have gone through the same difficulties as most government lawyers in departments when the regulations are in order and regulations experts of the Department of Justice find all sorts of things wrong with them. So I should like to preface this by saying that I am not speaking as an arbiter or one who passes judgment on the sufficiency of the form of regulations, but rather as one who has had it done to him.

Having said that, I will read the article of provisions. It says:

> 3. (1) Where a regulation-making authority proposes to make a regulation it shall cause to be forwarded to the Clerk of the Privy Council three copies of the proposed regulation in both official languages.
>
> (2) Upon receipt by the Clerk of the Privy Council of copies of a proposed regulation pursuant to subsection (1), the Clerk of the Privy Council, in consultation with the Deputy Minister of Justice, shall examine the proposed regulation to ensure that
>
> (a) it is authorized by the statute pursuant to which it is to be made;
>
> (b) it does not constitute an unusual or unexpected use of the authority pursuant to which it is to be made;
>
> (c) it does not trespass unduly on existing rights and freedoms and is not, in any case, inconsistent with the purposes and provisions of the Canadian Bill of Rights; and
>
> (d) the form and draftmanship of the proposed legislation are in accordance with established standards.
>
> (3) Where a proposed legislation has been examined as required by subsection (2), the Clerk of the Privy Council shall advise the regulation-making authority that the proposed regulation has been so examined and shall indicate any matter referred to in paragraphs (a), (b), (c) and (d) of that subsection to which, in the opinion of the Deputy Minister of Justice, based on such examination, the attention of the regulation-making authority shall be drawn.

Then there are provisions that go on for the transmission —

The Chairman: You have gone far enough for me. Our great problem with the Bill of Rights is that it applies to federal legislation only and not to provincial situations. Here you are really arriving at a point where you impose the federal Bill of Rights provisions on these provincial regulations because they are regulations under the statute—which saves almost all of my earlier concern about annulling, and so on, because I think that regulations which were punitive, arbitrary or confiscatory would be picked up under the Bill of Rights, very possibly.

Mr. Levy: They are all examined, and one would hope that they would be sent whence they came.

Senator Connolly (Ottawa West): What action is required of the federal government for those regulations? Once the deputy minister, the Clerk of the Privy Council and the Deputy Minister of Justice have had their say, is there any other positive action to be taken? Are they to be approved, for example, at the meeting of the Council, which would say, "Let them take the effect that their language would imply," or something like that? I remember going to Council meetings where we were forever saying that about provincial legislation. Would Council be required to give formal approval to those regulations, or is the finding of the Minister of Justice and the Clerk of the Privy Council the be all and end all? If they find a regulation to be in order, is it then effective? When does it become effective?

Mr. Levy: The thing goes through a machinery process and it is transmitted to the Clerk of the Privy Council who registers the regulation. There is provision here, which is subsection (1) of section 7, which states that:

> Where any statutory instrument is transmitted or forwarded to the Clerk of the Privy Council for registration under this Act, the Clerk of the Privy Council may refuse to register the instrument if
>
> (a) he is not advised that the instrument was, before it was issued, made or established, determined by the Deputy Minister of Justice pursuant to section 4 to be one that would, if it were issued, made or established, not be a regulation; and
>
> (b) in his opinion, the instrument was, before it was issued, made or established, a proposed regulation to which subsection (1) of section 3 applied and was not examined in accordance with subsection (2) of that section.

So it has to have examination by a justice before the Clerk of the Privy Council can register it and it goes into effect. We then have here "the power to revoke regulations."

Senator Connolly (Ottawa West): Before you go to revocation, it would appear that if the Clerk of the Privy Council is satisfied about its antecedents, including the action of the Deputy Minister of Justice, and he registers it, it is then effective, even if the date is one that is contained in the regulation itself.

Mr. Levy: That wouuld be subject to the provision that you cannot make retroactive regulations without statutory

authority to do so. So it could not come into effect until the day —

Senator Connolly (Ottawa West): I am thinking of a date in advance of the date that it is registered, such as three months hence. They could do that. So it is the registration that makes this regulation that is done by the province under the authority of this section.

Mr. Levy: There is a provision under section 9 which says:

> No regulation shall come into force on a day earlier than the day on which it is registered unless
>
> (a) it expressly states that it comes into force on a day earlier than that day and is registered within seven days after it is made,

So there is statutory authority here to have seven days retroactivity prior to registration. There is another provision that they can revoke it if it is not certified by the Deputy Minister of Justice in accordance with those regulations, and so on.

Senator Lafond: May I add, none of the members of the Joint Committee on Regulations and other Statutory Instruments, including those on the administrative side, had a satisfactory definition of exactly what is a statutory instrument, and in practice we find instances where there is retroactivity, which is not acceptable to that committee.

Mr. Levy: I understand that. In this instance, we are talking about a particular kind of statutory instrument, which is a regulation. I do not think the disagreement between the committee and the government extends to regulations as such. I think it is those other things that are called statutory instruments. It is in respect of those that there is some question as to what is and what isn't.

Senator Lafond: I am sure that is a reservation that Senator Forsey would have made had he been here.

Mr. Levy: I am sure he would have.

Senator Connolly (Ottawa West): He is now here.

I think we understand that part now. In any event, there is no action by Order in Council required by the federal authority, and that applies not only to regulations made by the provincial authorities under the provisions of this proposed act, but to regulations made by the federal authority under the provisions of federal legislation.

Mr. Levy: The only reservation I would add in respect of that general statement, Senator Connolly, is that the Governor in Council is making regulations under his statutory authority. They take the form of an order in council passing regulations. But that is a matter of form, I suspect, rather than substance. It is simply that he is the regulation making authority.

The Chairman: Honourable senators, as this matter arose while Senator Forsey was out, might I be permitted to review for him the fact that I, for one—and Senator Forsey had probably already focused on this—had not focused on the fact that this authority to the Lieutenant Governors of the provinces to pass regulations was not really a granting of statutory authority to the provinces, as I was reading it, because that would necessitate amending the BNA Act. Rather, it is the giving to the Lieutenant Governors of the provinces the authority to make regulations pursuant to this act. So, they become federal regulations subject to the Statutory Instruments Act, from which Mr. Levy has read us some sections, requiring them to be reviewed by the Privy Council Office to make sure they comply with the Bill of Rights.

There is at least that slight advantage. Provinces not bound by any bill of rights could pass regulations of a much more dangerous nature; they could pass legislation under provincial statutes of a much more dangerous nature than they could get away with under this statute, because of the federal Bill or Rights. At least that protection is brought to bear on some of the things we were concerning ourselves with a few moments ago.

Senator Forsey: I also had not thought of that particular thing. Of course, I was aware, as I think I said, that we cannot transfer legislative jurisdiction. We can merely act by administrative delegation. In effect, we are saying the Lieutenant Governor in Council shall be deemed for these purposes to be acting under the authority —

The Chairman: That has been our discussion since you stepped out. It certainly helped me considerably, although now that I understand they are going to be federal regulations, not provincial, I again come back to the words "annul" and "succession." I do not like to see them in federal regulations, as opposed to provincial regulations, where one might expect to find them.

Senator Forsey: There may be some rather knotty legal problems arise.

The Chairman: Shall subclause (3) carry?

Hon. Senators: Carried.

The Chairman: Next, subclause (4).

Senator Macnaughton: Mr. Chairman, I have two objections to subclauses (4) and (5). I admit that you called my attention to them.

Subclause (4) reads:

> Every person who fails to comply with any prohibition, annulment or restriction made pursuant to subsection (2) is guilty —

We have had legislation time after time in the Banking, Trade and Commerce Committee in this manner, and we have always inserted the words "without reasonable cause"; In other words, an individual is not guilty without reasonable cause. It is a protection. Under subclause (4) he is automatically guilty.

Turning to subclause (5), it states:

> Where a corporation has committed an offence under subsection (4), any officer, director or agent of the corporation —

And after "agent" I would again insert the words "who, without reasonable cause".

We have been extremely careful in the Banking, Trade and Commerce Committee to always insert the words, when we have this type of adamant legislation, "without reasonable cause." An officer may not even know what is going on; he may have delegated that to someone else. One is not guilty until he is proven guilty. This changes the whole force and effect.

The Chairman: I was also interested in subclause (4), the second line, as to how a person could be guilty of failing to comply with an annulment.

Mrs. Reed: I do not know how one would be guilty of failing to comply with an annulment, unless it was a case where one tried to reconvey the property, holding out that he had authority to transfer it when in fact he didn't.

In reply to Senator Macnaughton's question, I would have thought that section would have had the word "prove." If you prove a person did not comply with the prohibition, at the present time he would be guilty. If you add the words "without reasonable cause," what you are doing is opening up the right of the individual to say, "Well, I didn't know about the law," or, "I didn't know I was required to do such-and-such and, therefore, I have an excuse."

Senator Macnaughton: You are supposed to know the law, so that does not apply. To take it your way, I am automatically guilty; I have no defence.

Mrs. Reed: If you had committed the act which is the offence ...

Senator Macnaughton: Yes, innocently, in ignorance.

Mr. Levy: Senator Macnaughton, as you know, there are two types of offences, those requiring the element of *mens rea*, guilty mind, and those which do not, such as going through a red light. No excuse is accepted. I would think that this is the type of offence into which the word "wilfully" has to be imported. It would be, "Every person who wilfully fails to comply with any prohibition" and *mens rea* would be required to obtain a conviction.

The Chairman: It certainly should be.

Mr. Levy: I do not think a court of law would convict under this proposed section without *mens rea* having been proven.

Senator Macnaughton: You do not think so, but you are not the court.

Mr. Levy: No. Would that I were.

The Chairman: Senator Macnaughton, without conceding that your point is not well taken relative to subclause (4), and assuming there is something in the point made by Mr. Levy to the effect that a court would read "wilfully fails," you have a worse situation, it seems to me, in subclause (5), which reads:

> Where a corporation has committed an offence under subsection (4), any officer, director or agent of the corporation who directed, authorized, assented to, acquiesced in or participated in the commission of the offence is a party to and guilty of the offence ... whether or not the corporation has been prosecuted or convicted.

In subclause (5) you do not have that implication of *mens rea* required that might be argued under subclause (4). You have a situation where, quite simply, the provincial government passes a regulation to the effect that 5 per cent foreign ownership constitutes control of a corporation, and it then passes a regulation stating that such a corporation may not own land in that province. Taking that example, if at a board of directors' meeting in the other end of the country the directors of a B.C. based corporation had, by their professional managers, laid before them a minute saying the corporation is going to develop a mine which it bought in British Columbia, and they go ahead and assent to or acquiesce in that act, without any prosecution against the corporation, without any knowledge on the part of the board of directors that an offence was being committed without any *mens rea*, without any reasonable cause being shown, it seems to me they would be guilty and liable to conviction. This is one of those things by association that always bothers me terribly.

Senator Macnaughton: This comes up not too often, thank goodness, but it has coming up too often recently, in the last two or three years, and we always insist on some reasonable protection.

The Chairman: The word is "reasonable," something reasonable, because if this goes on too long, my concern is that you will emasculate Canadian companies; you will make it so that nobody who is not an officer of an in-house Canadian company will be willing to be a director. This will weaken an already weakened industry in Canada relative to the rest of the world. That has nothing to do with citizenship, but it is concerning me when I keep tripping against these things all the time.

Senator Forsey: A question that presents itself to my simple mind is: How can you know a corporation committed an offence under the subsection if it has been neither prosecuted nor convicted? If it has not been convicted, how do you know it has committed an offence?

The Chairman: I think in prosecuting the individual you would have to bring sufficient evidence to prove that the corporation, if it had been charged, would have been found guilty.

Mr. Levy: And was responsible for it.

The Chairman: Or that he acquiesced.

Mr. Levy: He would knowingly have to acquiesce, surely.

The Chairman: You knowingly acquiesce.

Mr. Levy: You cannot really acquiesce if you do not know what it is about.

The Chairman: It is assented to.

Senator Forsey: It seems to me a most extraordinary thing that you say, "Don't bother the corporation, but the poor blighter who acquiesced," who may have little idea of this business going on. You say, "Here we have got evidence which has not been pronounced on by any court. We have evidence that the corporation committed the offence, but we are not going to prosecute the corporation. Oh no. We just prosecute the poor director," or whatever he is. It looks like the most curious thing to the lay mind.

Mr. Levy: It might be a corporation out of the country. You cannot send it to jail. It might have a director in Toronto who was a nasty type and provoked the whole thing.

Senator Macnaughton: So you are already thinking, "We will convict. We will convict." That is not our law. Our law is that you are not guilty until you are proven guilty.

Mr. Levy: I assume they would be proven guilty. That is why I suggested it is not the type of offence the court has traditionally taken to be statutory offences, like highway traffic offences.

The Chairman: You say there is one director in Toronto, and if he assented to an act by the corporation whereby the

corporation fails to comply with an annulment he should go to jail.

Mrs. Reed: It depends what one is talking about when talking about assent. I do not see how you can assent to the commission of an offence without knowing about it. It says:

> ... any officer, director or agent... who directed, authorized, assented to, acquiesced in or participated in the commission of the offence is ... guilty.

All the rest of that clause says is that you do not need to proceed against both the corporation and the individual.

The Chairman: If you had the words "knowingly assented to the commission of an offence" —

Mrs. Reed: I do not know how you can assent to something without knowing it.

The Chairman: The word is "knowingly," which is found throughout the Criminal Code.

Mr. Levy: I think it would be imported into this. As Mrs. Reed said, if you do not understand what you are doing how could you do it knowingly?

Senator Forsey: The word is "acquiesced." You can acquiesce in something without knowing it. You can sit there and not say anything. You may have failed, as I have failed over and over again here, to know really exactly what is going on, and I have had to keep asking questions, asking questions and asking questions. I am a director and I sit there and say, "I don't know. It sounds all right. The company lawyer would have warned us if anything was dangerous in it." I acquiesce and do not say anything. You say, "You must have known if you assented."

Mr. Levy: What I have been suggesting is that to obtain a conviction the court would read that as knowingly or wilfully acquiescing. In other words, just sitting there without knowing what it is all about is not a reason to convict a person.

Senator Forsey: It is really doing violence to the English language.

Senator Lafond: Why doesn't the bill say so? Why does the Criminal Code feel it necessary to have this?

Mr. Levy: It says so in some places but not all places.

The Chairman: It is some 20 odd years since I have done any criminal law, although I did quite a lot prior to that, but I would not be willing to rely on my own recollection of the law at this stage. I, for one, would welcome the observations of persons knowledgeable in the criminal law on these two subsections. It is a question of "knowingly" and "willingly" and so on. I would like to know whether one could look to our confrères in the Standing Senate Committee on Legal and Constitutional Affairs for some assistance on that, or elsewhere. It is something we could think about.

Senator Macnaughton: I used to be a Crown prosecutor for four years, but that was not last year.

The Chairman: I think we will need some current jurisprudence on this type of thing.

Senator Forsey: It may be that on this committee there is a criminal lawyer; I do not know.

The Chairman: I think most of us, by the time we get here, have possibly been removed from our practices for so long that it is dangerous to rely on recollection.

Mr. Levy: Would you like us to try to get an authority on the criminal law from the Department of Justice?

Senator Macnaughton: With respect, perhaps if you are speaking to someone in authority you could see if somehow using the words "without reasonable cause," or an equivalent, would destroy the statute, or destroy what you are trying to do. In the Standing Senate Committee on Banking, Trade and Commerce, we never let these things go by; we always insert, even if we amend the bill, because it is popping up too frequently. As the chairman pointed out, the train of events creates a custom, and before long we do not have any rights.

Senator Forsey: To my mind, this is an extremely important part of the function of the Senate, to look out for the rights of the individual. This is one of the essential bases of our existence.

The Chairman: They are looked out for in very few other places these days.

Senator Forsey: I think it is a function which is extremely important, and which will go by the board if we do not exercise it.

Senator Macnaughton: That is right.

The Chairman: Shall we stand subsections (4) and (5)?

Hon. Senators: Agreed.

The Chairman: Subsection (6). Shall paragraph (a) carry?

Senator Macnaughton: We discussed this in detail this morning.

The Chairman: I have been through this in detail to my satisfaction, as I hope have other honourable senators. Shall subsection (6) carry?

Hon. Senators: Carried.

The Chairman: Subsection (7). I have only one question on this subsection. The subsection says:

> Subsections (2) to (6) shall come into force in any province only upon a day fixed in a proclamation of the Governor in Council declaring those subsections to be in force in that province.

That is the federal Governor in Council. I would have liked to see the word "inclusive" so that it read "Subsections (2) to (6) inclusive." Do they not depend on one another a little? In other words, you would be proclaiming one and not the other.

Mr. Levy: I think it does mean inclusive, sir.

Senator Connolly (Ottawa West): When you say "(2) to (6)" it is subsections (2) and (6).

The Chairman: That was my only query.

Mr. Levy: There is no problem there.

The Chairman: Shall subsection (7) carry?

Hon. Senators: Carried.

The Chairman: Subsection (8). I have only one question here. What is the significance of July 4, 1883?

Senator Forsey: I haven't the faintest idea.

The Chairman: If an expert like you does not know that date, if it is not embedded in your mind or ingrained in your memory —

Senator Forsey: Neither you nor me.

The Chairman: We had better have an explanation.

Senator Macnaughton: What is the purpose of the whole subsection?

Mr. Levy: That is a toughy. It was in the existing law and it was in the previous law and it will take someone who knows more about land law than I remember to give you the exact significance of it. To the best of my recollection which, as I say, at this point in time or however you couch it, I think it has to do with the date that the British law came into this country according to the evolution of the states act. It had to do with the date on which the common law was imported into this country by the provincial statutes. It has some magic.

Senator Connolly (Ottawa West): It was not the date of the Judicature Act in the U.K.?

Mr. Levy: I am not quite sure. I have to confess that maybe 20 odd years ago I studied it in legal history and having written the exam I promptly forgot about it.

The Chairman: It may have to do with reception at the time of Confederation where some provinces like British Columbia were considerably before others.

Mr. Levy: Yes, that could be.

The Chairman: It is a date that is news to me. I have never seen it before.

Senator Connolly (Ottawa West): Mr. Levy can get that information for us; we are not going to finish with this bill today.

Mr. Levy: It has some magic meaning.

Senator Forsey: If you have simply the date of reception, I should have thought—as, indeed, you implied, Mr. Chairman—it might vary from province to province.

My impression, from reading the present Chief Justice's lecture on the subject in England, is that the English law was received in different parts of the country at different times. However, it is a magic date.

Senator Connolly (Ottawa West): This is a federal statute.

The Chairman: It may be that it was in July 1883 that aliens were first permitted to own land in Canada.

Mrs. Reed: That was before Confederation.

Mr. Levy: Well, that does not help then. It has some magic and innocuous meaning due to the fact that it was 90 odd years ago.

Senator Forsey: I gather the real point of subclause (8) is to refer back to subclause (1).

The Chairman: Yes. The other thing has been interjected in the middle.

Shall subclause (8) carry subject only to an explanation of paragraph (e) thereof? All right.

Therefore, clause 34 carries.

Hon. Senators: Carried.

Senators Connolly (Ottawa West): Where do you get the word "triable"? Has it been used?

Mr. Levy: This is one of the things that I have prepared for, or I was able to prepare for.

Senator Forsey: One of our colleagues learned in the law, in the Senate, told me he looked it up in the *Oxford English Dictionary*. There were two meanings given for "triable": one was "subject to trial", and the other was "divisible into three". A person who is not a Canadian is divisible into three parts, by law!

Mr. Levy: You have pre-empted me because I do have the Shorter Oxford English Dictionary here and I might say the same definition is contained therein. It says that "triable" means "1. *Law.* Capable of being tried in a court of law; liable to judicial trial". The second meaning is, "That may be ascertained, tested, of proved."

It appears in the Citizenship Act, where it has appeared since at least 1947. I have a list of several other statutes where it appeared. The word is found in the Citizenship Act, section 25; the Immigration Act, section 50; it is found in two sections of the Juvenile Delinquents Act and found in several sections of the National Defence Act, also the Official Secrets Act and the Prison and Reformatories Act and the Yukon Act. So, it does exist, although it is not of common usage, I might say.

The Chairman: It is not subject to ambiguity.

Senator Forsey: I do not really think so.

Mr. Levy: I have not seen an awful lot of people say, "Where does this word come from?" When the question was first raised in the second reading debate of the Senate, I didn't have a ready answer. We had to go look for it.

The Chairman: Shall clause 34 carry?

Hon. Senators: Carried.

The Chairman: Shall clause 35, subclause (1) carry? That is the transitional provision.

Hon. Senators: Carried.

The Chairman: Shall subclause (2) of clause 35 carry?

Senator Connolly (Ottawa West): What does that mean, Mr. Levy?

Mr. Nichols: It means he has got a certificate and he has taken the oath and the only way he can lose it is under the loss part of this act.

Mr. Levy: In effect, even though a person was made a citizen under the previous legislation, he is protected by these provisions.

The Chairman: Shall clause 35 carry?

Hon. Senators: Carried.

The Chairman: Shall clause 36 carry?

Hon. Senators: Carried.

The Chairman: Shall clause 37 carry?

Senator Forsey: What is the effect of this?

Mr. Levy: I have not before me a copy of the bill on first reading in the other place, but I think this amendment was just to substitute "a country of the Commonwealth" for the "British subject" reference. I believe that is what it is.

Senator Forsey: It doesn't make any substantial difference?

Mr. Levy: No.

The Chairman: I just want to be quite sure, and you are assuring me that it does not eliminate the qualifications of land surveyors presently practising?

Senator Forsey: That is what I was worried about.

Mr. Levy: I do not think so. I think it just changes the "British subject" reference to the Commonwealth.

Senator Connolly (Ottawa West): There is nothing in the black book about it?

Mr. Levy: No, there is not, senator. I have a copy of that bill at first reading and that provision should be here. The Canada Lands Surveys Act presently reads:

> (b) a person who
>
> (i) holds a valid and subsisting certificate, diploma, commission or other document entitling him to survey lands in a province of Canada under the laws of such province or to survey lands in a country of the British Commonwealth, as defined in the Canadian Citizenship Act, or in a province, state or other territorial division of such country under the laws of such country, or of the province, state or other territorial division thereof,

The Chariman: It seems to me they have only taken the words "British" out, in front of "Commonwealth." There were some words after that.

Mr. Levy: They have taken out the word "British" and "as defined in the Canadian Citizenship Act" and said "a country of the Commonwealth defined in the Interpretation Act."

The Chairman: Yes. That seems satisfactory. So, shall clause 37 carry?

Hon. Senators: Carried.

The Chairman: Shall clause 38 carry?

Senator Connolly (Ottawa West): This gives authority to the trial division of the Federal Court to hear appeals from this act?

The Chairman: Yes, which we dealt with last week at some length, as I recall. Shall clause 38 carry?

Hon. Senators: Carried.

The Chairman: Shall clause 39, subclause (1) carry? This is the oath matter which we had stood earlier. Shall we continue to stand it? The reason being that if we were to recommend a substantive amendment to the act we might tidy up the conflicting oaths at the same time but we would not do so if we were not making a more substantive amendment. So, we will hold it for the moment.

Shall clause 40 carry?

Senator Connolly (Ottawa West): Well, this simply gives the judge, under this act, certain rights under the Public Superannuation Act; is that not so?

Mr. Levy: Yes.

Senator Connolly (Ottawa West): Heretofore we have not called them judges; we referred only to the court in the legislation.

Mr. Levy: That is correct.

Senator Connolly (Ottawa West): This ties it down to the judge as defined here.

Mr. Levy: It is to ensure the calculation of the service on a continuing basis, before and after.

Senator Forsey: He is the same chap but he now has a better title.

Mr. Levy: That is about it.

The Chairman: Access to both clauses, both 1 and 2. Clauses 40 carries. Is clause 41 carried?

Hon. Senators: Carried.

The Chairman: Clause 42.

Senator Forsey: This merely means that he can vote, doesn't it?

Mr. Levy: That is correct. He was caught by the definition in the Canada Elections Act.

The Chairman: Shall clause 42 carry?

Hon. Senators: Carried.

The Chairman: Shall clause 43 carry?

Hon. Senators: Carried.

Senator Connolly (Ottawa West): The schedule will be in the same category as clause 39.

The Chairman: I would suggest that apart from what we have just been discussing relative to clause 33, our most substantive problem is with clause 21. We might come back to clause 21, and our judgment as to whether or not some of the other less fundamental things should be changed will depend largely on what we do relative to clause 21. At this point I would ask the clerk to advise Mr. du Plessis that we are coming to clause 21, because he hoped to be able to get away from the other committee to come here. He has some views to express as the Law Clerk of the Senate, and our witnesses have prepared themselves to give us some thoughts relative to this section. Perhaps I might request the concurrence of the committee in a five-minutes adjournment before recommencing on this matter.

Hon. Senators: Agreed.

Short adjournment

The Chairman: The committee will come to order. I do not know who would like to go first, but probably we should let Mr. Levy proceed on the subject of section 21 and then we can hear from Mr. du Plessis if he has anything to add.

Mr. Levy: Dealing with clause 21, as I mentioned on Thursday morning last, this clause does not confer any authority to subdelegate, and that in the absence of that

authority to make a subdelegation, it is illegal to do so. I mentioned at that time the common law right that a minister has to delegate certain of his powers, subject to a court deciding that the power is one that the minister should have performed personally not delegated.

senaotr Connolly (Ottawa West): If I might interject at this point, you say the common law right. Is there no authority in the federal statute law which enable a ministe to delegate functions to hi dputies and to others?

Mr. Levy: Yes, there is, senator. Section 23(2) of the Interpretation Act contains a provision, which reads as follows:

> Words directing or empowering a Minister of the Crown to do an act or thing, or otherwise Applying to him by his name of office, include a Minister acting for him, or, if the office is vacant, a Minister designated to act in the office by or under the authority of an order in council, and also his successors in the office, and his or their deputy, but nothing in this subsection shall be construed to authorize a deputy to exercise any authority conferred upon a Minister to make a regulation as defined in the *Regulations Act*.

If I might just pass to the French version, the word "deputy" is translated as "délégué."

The Chairman: And "deputy" as it appears in what you just quoted has a small "d".

Mr. Levy: Yes. In the *Oxford Dictionary*, "deputy" is defined as a person authorized to act for another in the holding of his office, but having no interest in the office. That is a general deputy. A special deputy is defined as a person similarly authorized to exercise some special function only; phrase by definition, by another person in one's stead.

Looking at that provision, we have come to the conclusion that it does not mean a deputy head. It does not say "deputy head"; it says "deputy." The next subsection refers to a public officer. It says —

Senator Connolly (Ottawa West): It doesn't say "deputy minister"? It says "deputy."

The Chairman: With a small "d".

Mr. Levy: Subsection (3) states:

> Words directing or empowering any other public officer to do any act or thing, or otherwise applying to him by his name of office, include his successors in the office and his or their deputy.

Obviously that provison does not mean a deputy minister. So we have in the common law . . .

Senator Connolly (Ottawa West): If I may interrupt you again, it would mean anybody whom the minister might designate to be his deputy for a stated purpose.

Mr. Levy: That is our interpretation of it, senator. The result is that we have, both in the common law and also by statute in this country, authority for minister to delegate. I should like at this point to indicate that clause 21 —

Senator Connolly (Ottawa West): Before you go on, is there anything in the federal statute setting out the rights, the powers of a deputy minister?

Mr. Levy: Yes, some statutes have references to deputy ministers. I am not sure about the Financial Administration Act, but certainly the Public Services Employment Act, refers to a deputy minister.

Senator Connolly (Ottawa West): If you take any of the recent examples where departments have been set up, I am sure you will find provision for the establishment of the office of a deputy minister, setting out his powers, and so forth. I am just wondering whether there is a general provision of las covering the term "deputy minister."

Mr. Levy: Not that I am aware of, senator. It is mentioned in some statutes, and even in connection with the delegation of authority. The Public Services Employment Act states that the commission may authorize a deputy head to exercise and perform in such manner, and such and such.

Senator Connolly (Ottawa West): That is a deputy head. It is not a deputy minister. It may be the deputy minister, but that is not the term I am looking for.

Mr. Levy: I think they use the term "deputy head" as being synonymous with "deputy minister," in the sens that the minister is the head of the department.

Senator Connolly (Ottawa West): That is probably so, but I am sure the term "deputy minister" is used.

Senator Forsey: I should have thought, Senator Connolly that "deputy head" was used—I speak subject to correction, of course—to cover people like the Under Secretary of State for External Affairs, who is not technically called "deputy minister".

Mr. Levy: He is called "Under Secretary of State."

Senator Forsey: I would have thought it was used to cover such individuals, and then I think you will find also that in the Library of Parliament Act it is provided that the Librarian of Parliament shall enjoy the rank of a deputy head. I am not sure about that, but I think that is true of a number of offices.

Mr. Levy: Yes, the Public Archives Act has that and I believe the National Library Act.

Senator Connolly (Ottawa West): But those are special cases. I think in most of the statutes establishing federal departments, special provision is made for the post of deputy minister.

Senator Forsey: Yes, but the generic term, I thought, was "deputy head", to cover all these johnnies who were not- —

Mr. Levy: I think you are quite right, Senator Connolly. If you are talking about the Department of Justice, for example, the individual concerned would be titled the Deputy Minister of Justice, or we would have the Deputy Attorney General, or the Deputy Minister of Consumer and Corporate Affairs, and son on.

The Financial Administration Act states that the Treasury Board may authorize "the deputy head of a department," and they use the term as being synonymous with "deputy minister." but you would not refer to the Secretary of State for External Affairs or the Under Secretary of State for Canada as being the deputy minister of the department. They are deputy heads. It is the same rank, but a different title.

Senator Connolly (Ottawa West): It is the generic terms, as Senator Forsey has pointed out.

The Chairman: For my benefit, Mr. Levy, would you mind reading again the section you quoted?

Mr. Levy: Yes, it was section 23(2) of the Interpretation Act. The point I was trying to make, Mr. Chairman, was that the word "deputy" in section 23(2) should not be read as being the deputy minister or deputy head. It reads:

> Words directing or empowering a Minister of the Crown to do an act or thing, or otherwise applying to him by his name of office, include a Minister acting for him, or, if the office is vacant, a Minister designated to act in the office by or under the authority of an order in council, and also his successors in the office, and his or their deputy, but nothing in this subsection shall be construed to authorize a deputy to exercise any authority conferred upon a Minister to make a regulation as defined in the *Regulations Act*.

There is another provision which refers to public officers and their deputies.

Senator Connolly (Ottawa West): What was that you just read from?

Mr. Levy: The Interpretation Act, section 23(2). The specific language of clause 21 should be considered a restriction on the common law and on the statutory provisions of the Interpretation Act, because it requires that the delegation be specific and be in writing. I would suggest to honourable senators that this ensures a proper scheme is worked out and a delegation is not made haphazardly, which can happen under other provisions. If there is a requirement that the person to whom authority is delegated has to be authorized in writing, then I think administratively this ensures that it is not just dealt with *ad hoc*.

On Tuesday last I promised honourable senators that I would produce a list of the powers that the minister has under Bill C-20. I would propose to read the provisions to you. Before doing so I might mention that there are particular federal statutes that have provisions authorizing delegation, some being very broad, and if you would like me to afterwards, I could list them for you.

The Chairman: I do not want to cut this testimony short, honorable senators, and possibly you might like the witness to continue through the exercise. However, I have had the advantage of having the Interpretation Act before me, which really answers my question, subject to some other observations I might have. However, if honourable senators would like the witness to complete his testimony, we will proceed.

Senator Connolly (Ottawa West): Let us hear your conclusion. It might be of interest to hear what the chairman has to say. You say you have come to a conclusion after having looked at the Interpretation Act.

The Chairman: It seems clear to me that the minister may delegate, which is what we were complaining about. The Interpretation Act says:

> Implied powers respecting public officers Powers of acting Minister, successor or deputy
>
> (2) Words directing or empowering a Minister of the Crown to do an act or thing, —

Of which we have several examples here —

> or otherwise applying to him by his name of office, include a Minister acting for him, or, if the office is vacant, a Minister designated to act in the office by or under the authority of an order in council, and also his successors in the office, and his or their deputy, but nothing in this subsection shall be construed to authorize a deputy to exercise any authority conferred upon a Minister to make a regulation as defined in the Regulations Act.

Senator Connolly (Ottawa West): You have read from section 23 of the Interpretation Act.

The Chairman: Yes. I do not want to cut the witnesses short, but we have taken up a great deal of their time and it is getting late in the afternoon. My observation is that I was one of the principal people to jump on this clause 21, although I know others were equally concerned. Harking back to the presentation before this committee in March this year of Bill C-85, a short bill to amend the Immigration Act, it included a provision:

> The Minister of Manpower and Immigration may make a deportation order against any person who is not a Canadian citizen and has not been lawfully admitted to Canada for permanent residence and who, in the opinion of the Minister and the Solicitor General certified by them to be based upon security or criminal intelligence reports received and considered by them is likely to engage in acts of violence that would or might endanger the lives or safety of persons in Canada.

You will recal that there was a great deal of discussion about that, because it is one of these extraordinary powers given to the minister, which one hesitates to do. In the course of discussion before the committee, the minister, Mr. Andras, was at some pains to describe to us how the power to issue such a certificate was a personal exercise of authority by the minister after examining all the files, and at some point you simply had to accept the fact that people in such responsible positions act responsibly.

The minister said:

> I have never dealt with it lightly at all.
>
> I know my colleague, Mr. Allmand, the Solicitor General, and his predecessors have taken the same view. We have spend many difficult hours examining the files and questioning the reports and all of the things that go into the decision making.

Here it was a very personal decision made by the minister. That committee agreed to the section because it was one of those things concerning authority where you have to trust ministers.

In this particular bill, when we came to clause 21 and see a specific power of legislation, my immediate reaction—Senator Forsey used the excellent expression of the man on the back stairs—is that anybody, no matter how lowly in the department, can have these powers delegated to him, and, as I said, the minister can go off and play golf every day. I think what we have done is to address our minds to this on the wrong statute, in a sense.

In the bill before us there are very few things the minister is charged with doing, and they are not of great substance or moment, as was the problem we were dealing with on Bill C-85. I think if we had known then what we know now we might well have said on Bill C-85 that section 2, the special power being exercised by the minister, shall only be exercised by the minister and may not be deputized by him. I think the horse has left the barn on us.

I am sorry to have interjected my comments into the evidence, but that seems to sum up my thoughts on it.

Senator Connolly (Ottawa West): I may not help by saying this, but let me say it and see if I am right. Clause 21 does not confer any special authority upon the minister to delegate. He has that authority under section 23 of the Interpretation Act. What this clause says is that he may exercise that delegation in writing; secondly, it says that once that writing has been given the authenticity of the document he uttered shall not be questioned, once his signature is on it.

The Chairman: Which was not an aspect that gave any of us any trouble last week.

Senator Connolly (Ottawa West): That was the amendment of Gordon Fairweather in the other place, to clear up that clause. If you out a bracket around that clause, omitting the words "witnout proof of the authenticity of the authorization," the effect seems to me to be clause 23 plus a document in writing to evidence clause 23. It seems to me that if you put a bracket around the phrase dealing with the authenticity of the document, all the section does is reiterate section 23 of the Interpretation Act and say it may be done in writing, first of all, and secondly, when it is done in writing the authenticity cannot be questioned.

Mr. du Plessis: I have just one point, and that is it is not a question that it may be done; it has to be done in writing.

Senator Connolly (Ottawa West): It has to be done in writing under this act, that is quite right.

Mr. du Plessis: It is a restriction on the authority to delegate already contained in the Interpretation Act.

Senator Connolly (Ottawa West): It must be done in writing in this case. Under the Interpretation Act there is no requirement for a document. That was my interpretation of it from the beginning, but I was not too sure after the other points were raised and I was not at the meeting the other day, as you know.

The Chairman: Yes, Senator Connolly, and it will be a reminder to me in the future, when there are clauses that the minister will do such-and-such, or the minister may at his discretion do certain things—if it is of some importance beyond an administrative nature, such as involving the liberty of the subject—that I for one will be seeking words that he indeed do that and not delegate it. So, I think we have a pretty good point, Senator Forsey, but we have it upside down.

Senator Forsey: I have another question to ask, but I believe Mr. du Plessis has something to say.

Mr. du Plessis: I would just like to say that the other day there was a reference made to the marginal note being a little misleading. It says "Delegation of authority." The thought occurred to me at that time that perhaps the marginal note would better describe the section if it said "Delegation of authority in writing," because that is really the gist of clause 21.

Since marginal notes do not form part of the enactment, we could probably editorially add the words "in writing". I just put that out as a suggestion.

Senator Forsey: The final point I would like to make about this is the words, "anything that is required to be done or that may be done by the minister under this act or the regulations." It is the words, " or the regulations" that I am concerned with. If Mr. Levy had gone through the list of things the minister is empowered to do by the act, we might have had a fairly short list.

Mr. Levy: Would you like me to do that?

Senator Forsey: Just half a jiffy, if I could finish my brief argument on this.

One thing that worried me about it, when I looked at it, was that under clause 26, especially clause 26 (1), you might delegate very considerable extra powers conferred upon the minister which are not actually conferred in the act. Then he might be in a position to delegate these extra powers. You would have, as it were, the regulations by the Governor in Council empowering the minister to do something which the minister could then empower one of his officials to do. Something depends here on the exact words, I suppose, in the Interpretation Act. When the Interpretation Act says, "the word so-and-so shall mean such-and-such," does it include regulations? Does it say in any act?

Mr. Levy: It uses the expression "enactment," sir. It says words directly empowering the minister of the Crown to do an act or thing, or otherwise implied unto him by his name. This act applies to the regulation as well, in any event.

Mr. du Plessis: Section 3 of the Interpretation Act says:

> Every provision of this Act extends and applies, unless a contrary intention appears, to every enactment, whether enacted before or after the commencement of this Act.

"Enactment" is defined as meaning "an Act or regulation or any portion of an Act or regulation."

Senator Forsey: But the fact remains, then, that the powers expressly given to the minister under this act—I said fact, I should have said the possibility remains. My argument is that the regulation, especially under clause 26(1), might confer upon the minister a variety of other powers which he then would be in a position to delegate to his deputies or whatnot.

Senator Connolly (Ottawa West): Within the four corners of the act.

Mr. Levy: Yes.

Senator Forsey: But the four corners give a perhaps fairly large area.

Mr. Levy: It depends really what regulations the Governor in Council has authority to make, including under (1), which I believe I pointed out this morning does not allow him to go and invent things extraneous to the act.

Senator Connolly (Ottawa West): I must say that if I had been in on the drafting of clause 21, I would have put the phrase about authenticity at the end instead of where it is. I think it would have obviated a lot of problems the committees have had, in both houses.

Mr. Levy: I think the phrase, "and authenticity" was added by the House of Commons committee.

Senator Connolly (Ottawa West): Sure it was.

Mr. Levy: To which I can only plead that I was out of town at the time, not that it would have made any difference.

Senator Connolly (Ottawa West): It is the house committee I am criticizing. They are quite right in the change they made but they put it in the wrong place.

I am prepared to move that clause 21 carry.

The Chairman: Shall clause 21 carry?

Hon. Senators: Carried.

The Chairman: Apart from one or two minor things, such as the oaths and clause 26(1), it seems to me the substantive matters we have left are clause 33, subclauses (2), (4) and (5). I do not think that we can effectively deal with these at this time. We can continue to discuss the matter for another hour, but I do not think we can effectively come to grips with the rather technical points we have raised about the quality of proof necessary for criminal convictions in these particular sections.

All I can suggest, honourable senators, is that we adjourn the matter until next week and ask the law officers of the Crown and our Law Clerk to come back, particularly relevant to subclause (4) and (5) on criminal charges, and make whatever individual inquiries the members of the committee wish to make in the meantime, in addition.

Senator Connolly (Ottawa West): The question in (4) and (5) is the question of strict proof and the addition of the words, "without reasonable cause" alleviate the onus quite a bit. I do not know whether it is warranted in this case. We had it arise a number of times in the revision of the Bankruptcy Act, and I think perhaps in the new Canadian Corporations Act, in the penalty sections. This was some months back.

The Chairman: I recall something in some Prairie Grain Act where there was a similar problem.

Senator Connolly (Ottawa West): You may well be right, but now that I think of it, it was in the Competition Act too.

Senator Forsey: Yes, it was.

The Chairman: There was a great uproar and I think it was amended in some act involving prairie grain subsidies, where officers of companies that did something under it were just automatically deemed to be guilty.

Senator Connolly (Ottawa West): The officers might find something in the discussion in the Banking Committee on the Competition Act, and maybe on the Bankruptcy Act. There was some law set out at that time. This may be helpful to whoever has to look it up. That would be last fall—October, November, somewhere along there.

Mr. Levy: That was the Competition Act, Senator Connolly and . . .

Senator Connolly (Ottawa West): Either or both the Competition Act and the Bankruptcy Act, and perhaps also the one the chairman mentioned, the Canada Grain Act.

The Chairman: It was quite recent, last year some time, the Prairie Grain Act or something to do with that.

Senator Forsey: That is my recollection as well.

Mr. Levy: Is it the Prairie Grain Stabilization Act?

Senator Forsey: I do not know what it was, but some act dealing with prairie grain.

Senator Connolly (Ottawa West): To help the committee, you might have to make a distinction between the provisions in those other acts, regardless of how many there were, and an act like this. This may be an appropriate provision in the Citizenship Act, and the change might have been an appropriate change to make in, say, the Competition Act or the Bankruptcy Act.

The Chairman: We must keep in mind that these sections do not have so much to do with the question of citizenship as with the whole question of land transfers. So it is not just the question of the Citizenship Act.

Senator Connolly (Ottawa West): And there is also the question of corporate responsibility.

Senator Forsey: Some of us could jog our memories by speaking to Senator Hayden who would probably remember all these things.

The Chairman: Yes, and it is certainly my intention to make some personal inquiries on my own, and I am sure other honourable senators will do likewise. I have no doubt our witnesses will do the same thing.

We have now adopted everything apart from these land sections and apart from clauses 23 and clause 26(1). I think we can leave 23 alone because we do not have a substantive amendment arising out of it. Then clause 26(1), as you know, Senator Forsey, deals with:

> (1) providing for matters necessary for carrying into effect the purposes and provisions of this Act.

We stood that earlier. It is not one that I was particularly concerned about, but some other senators were and raised it at the time. Do you want to deal with that now?

Senator Forsey: As far as I am concerned, Mr. Chairman, I don't really think we can get any farther on it. I still feel a little nervous about it, but if I were a member of the committee I would not be disposed to press the matter.

Senator Connolly (Ottawa West): It seems to me, and I think that Senator Forsey would probably agree, that this is not the first time that this has appeared in a statute. It is constantly coming up. I think what we have to do is to weigh whether or not this is the kind of provision a minister requires. I suppose he says, "Well, I have to have some insurance," and that is the rationale for it. Every time we get a minister before our committees, we are told the same thing. It is almost like threshing old straw, although it is an appropriate thing to do at times. I don't think the message will ever get across to the draftsmen that we should not have clauses like that because I think that they feel quite conscientiously that the minister has to have this power.

Senator Forsey: Well, Mr. Chairman, my feeling about it is quite simply this. The doubts I had about it have been fully expressed and they have been animadverted upon by a variety of people more competent than myself. I still have some little bit of uneasiness. I shall just watch, however, to see how it works out. If it seems to be working out badly, then I shall have to consider if there is anything I can do to improve matters.

Senator Connolly (Ottawa West): The great advantage we have, Senator Forsey, is that you are the watchdog.

The Chairman: Shall subclause (1) of clause 26 carry?

Hon. Senators: Carried.

The Chairman: Therefore clause 26 carries.

That leaves us with clause 23 which has not yet carried but which we would carry if there were no other substantive amendment, and with problems concerning clause 33, subclauses (2), (4) and (5). Then there is also clause 39. Clause 23 is the schedule and clause 39 concerns the oath of allegiance. In fact they all deal with oaths.

Mr. Levy: The only substantive clause outstanding then is clause 33 dealing with ownership of land.

The Chairman: That leaves 23, 33 and 39.

Senator Forsey: The land and the oaths.

The Chairman: And clarification, if it comes to us, on the 1883 date.

Senator Forsey: Mr. Chairman, I would like to express my personal, very warm thanks to the witnesses who have appeared before us and who, I think, have done a superb job and have been most patient and most informative and all that any committee could desire.

The Chairman: I shall certainly express those same thoughts when we eventually finish with the bill, Senator Forsey.

The Committee adjourned.

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1974-76

THE SENATE OF CANADA

PROCEEDINGS OF THE

STANDING SENATE COMMITTEE ON

FOREIGN AFFAIRS

The Honourable GEORGE C. van ROGGEN, *Chairman*

Issue No. 35

TUESDAY, MAY 25, 1976

Thirty-second Proceedings Respecting:

Canadian Relations with the United States

(Witnesses: See Minutes of Proceedings)

21509—1

THE STANDING SENATE COMMITTEE
ON FOREIGN AFFAIRS

The Honourable George C. van Roggen, *Chairman*

The Honourable Allister Grosart, *Deputy Chairman*

and

The Honourable Senators:

Asselin	Lafond
Barrow	Laird
Bélisle	Macnaughton
Cameron	McElman
Carter	McNamara
Connolly (*Ottawa West*)	Rowe
Croll	Sparrow
Hastings	Yuzyk

Ex officio Members: Flynn and Perrault.

(Quorum 5)

Order of Reference

Extract from the Minutes of Proceedings of the Senate, Wednesday, November 6, 1974:

"Pursuant to the Order of the Day, the Senate resumed the debate on the motion of the Honourable Senator van Roggen, seconded by the Honourable Senator Riel:

That the Standing Senate Committee on Foreign Affairs be authorized to examine and report upon Canadian relations with the United States;

That the Committee be empowered to engage the services of such counsel and technical, clerical and other personnel as may be required for the purpose of the said examination, at such rates of remuneration and reimbursement as the Committee may determine, and to compensate witnesses by reimbursement of travelling and living expenses, if required, in such amounts as the Committee may determine;

That the papers and evidence received and taken on the subject in the preceding session be referred to the Committee; and

That the Committee have power to sit during adjournments of the Senate.

After debate, and—
The question being put of the motion, it was—
Resolved in the affirmative."

Robert Fortier,
Clerk of the Senate.

21509—2

Minutes of Proceedings

Tuesday, May 25, 1976
(43)

Pursuant to adjournment and notice the Standing Senate Committee on Foreign Affairs met at 2:05 p.m. this day.

Present: Honourable Senators George C. van Roggen (*Chairman*), Barrow, Bélisle, Carter, Connolly (*Ottawa-West*), Lafond, Macnaughton, McNamara, Rowe and Yuzyk. (10)

Present but not of the Committee: Honourable Senator Molson.

In Attendance: Mrs. Carol Seaborn, Special Assistant to the Committee; Messrs. Robert Robichaud and Bill Neil, from the Library of Parliament, Research Assistants to the Committee.

AND ALSO: Mr. Jacques Vaillancourt, Vice-President, Ottawa, Aluminum Company of Canada.

On motion of Honourable Senator Macnaughton;—*Resolved;* That notwithstanding the resolution passed on October 24, 1974 respecting the printing of Proceedings, this Committee print 800 copies in English and 300 copies in French, of its Proceedings in relation to Bill C-20, An Act respecting citizenship.

The Committee then continued its study of Canadian Relations with the United States.

Witness: Mr. David Culver, President and Chief Executive Officer of The Aluminum Company of Canada.

Agreed;—That supplementary information, that may be developed by the witness later, be affixed to this Committee's proceedings as *Appendix "A"*.

At 5:10 p.m. the Committee adjourned to the call of the Chairman.

ATTEST:

E. W. Innes,

Clerk of the Committee.

Note: As the material, which was to be provided for inclusion in *Appendix "A"*, referred to above, is not yet available, it will be appended to a subsequent printed proceedings.

The Standing Senate Committee on Foreign Affairs

Evidence

Ottawa, Tuesday, May 25, 1976.

The Standing Senate Committee on Foreign Affairs met this day at 3 p.m. to examine Canadian relations with the United States.

Senator George van Roggen (*Chairman*) in the Chair.

The Chairman: Honourable senators, before introducing our guests today, let me first ask your views on the printing of the proceedings of the rather lenghty sessions we have had in our study of Bill C-20. It was my thought that we would hold their printing so that all the evidence heard with reference to that one bill could appear in a single volume. However, as you will recall, we have had two quite long all-day sittings on the bill, and it now seems that we shall have further extensive evidence from the department on the three areas we stood—clause 33, dealing with the constitutionality issue and the rules on trusts in the criminal law section, and the wording of the oaths. The Canadian Bar Association may want to appear before us on those points. In those circumstances, I think it proper that we print the evidence thus far, and if you agree, honourable senators, I would ask for a motion that we print 800 copies in English and 300 copies in French of the proceedings to date.

Senator Connolly (Ottawa West): I so move.

The Chairman: Is it agreed, honourable senators?

Hon. Senators: Agreed.

The Chairman: I should have specific information by Thursday morning—when, as you know, we will have Mr. Powis before us on this study—as to where we stand on Bill C-20, because I have not heard from the Department of Justice as to when they will be able to appear before us. It looks almost certain, however, that we will have to press forward with the matter next week.

This afternoon, honourable senators, we are very fortunate to have with us Mr. David Culver, President and Chief Executive Officer of the Aluminum Company of Canada Ltd. Mr Culver was born in Winnipeg, and is a graduate of McGill and Harvard Business School, and lectured, I believe in Geneva at the Centre d'Études Industrielles. He joined Alcan in 1949 and has had a wide range of experience in the company's affairs both domestically and abroad. He was manager of the New York office for a time, which undoubtedly gave him an insight into the U.S. marketing problems. He was executive vice-president of the company in charge of its world-wide fabricating and sales activities. In June, 1975, he became president and chief executive officer of the Aluminum Company of Canada Ltd., which I understand is the principal subsidiary of Alcan Aluminum Limited. In that capacity he has had responsibility for its smelting and fabricating and raw material operations in Canada, the United States and the Caribbean area.

Mr. Culver, we have been taking this evidence, and in our study of Canada-U.S. relations up to this point we have had a substantial body of factual and statistical information from government departments, trade agencies and so forth. We are now moving to what I am sure will be a very interesting part of the study—that is, evidence from individual industries as to how those industries function vis-à-vis our relationships with the United States and in the American market and as a component of the very vast trade which we conduct with the United States.

Honourable senators, with Mr. Culver is the Ottawa Vice-President of his company, Mr. Jacques Vaillancourt, whom I have asked to sit here with us.

Mr. Culver, if you are prepared to make an opening statement, we shall then have the questioning introduced by Senator Connolly.

Mr. David Culver, President, Aluminum Company of Canada Ltd.: Thank you, Mr. Chairman and honourable senators. It is indeed a privilege for me as well as for Alcan to appear before this committee. Like many other Canadians, I suspect I have spent most of my life looking for ways in which one could criticize the United States more often than looking for ways to delineate and make more precise its virtues. But it seems to me now that my own attitude has changed over the last four or five years. I have a strong impression that the United States—which looms, as we all know, so largely to our south—has been running its affairs very well and that our country has been benefiting from many of the good things which I, for one, feel have occurred in the United States. I think that our own country has matured a great deal in the 1970s, but I think that is something that you would know much more about than I. Certainly, that is my impression. I also have the impression that the United States has rededicated itself to some fundamental virtues in recent years and has gained strength thereby. So all of this leads me to feel that this must be the appropriate time for us to examine our relationships with the United States, and I hope that it will prove to be a time when our leaders in Canada will try to move public opinion more in the direction of seeing the United States not necessarily as something we have to fear or something we feel to be all bad, but as something to be looked at in a balanced way.

Senator Connolly (Ottawa West): Mr. Culver, would you mind an interruption here? When you talk about the things which have happened for the good south of the border, obviously you are talking about significant things, and I suppose you include in that generally the kind of foreigh policy that has been followed—and here I am not talking about the detail but about the general picture—perhaps in contrast to what happened after the second

war. Secondly, perhaps, the withdrawal from Vietnam; thirdly, the recovery from the Watergate problem; fourthly, its dealing with its domestic economy; and, perhaps, fifthly, although not necessarily in that order, the attitude towards world trade and, in particular, to the GATT negotiations. Would that be the kind of thing you mean when you say that things have happened for the better?

Mr. Culver: Yes. And I think, if I may add this, their whole attitude towards the type of efficiency Mr. Beigie was talking about in his most interesting appearance before this Committee is more evident in the United States in recent years. Specifically, going back to that ill-fated day in August, 1971 when the surcharge was suddenly sprung upon us, that seemed like a very blue day for all of us. It was a blue day for Alcan because our product was hit with that surcharge. In fact I think I am correct in saying that in the first 45 days the surcharge was in effect, Alcan paid 2 per cent of all the surcharge collected by the United States—a very large sum of money indeed at that time.

I did not realize it right away, but it was not too long thereafter that this whole question of putting the value of the American dollar, and thus the value of the Canadian dollar, in more appropriate relationship to the other currencies in the rest of the world had to be something which has been helpful to this country since that time.

Senator Connolly (Ottawa West): I would certainly add that to the list.

The Chairman: When Mr. Culver was making those remarks which caused you to make your comments, Senator Connolly, his remarks, without spelling it out, registered in my mind terms such as economic discipline and a greater dedication to the free market economy than we have seen in Canada.

Mr. Culver: I would say very much so, Mr. Chairman. My own assessment of the American people is that all they ask from us is that we grant them a reputation as good as it deserves to be, but no better. Again, I am speaking of areas about which I am sure you honourable gentlemen know more than I, but it seems to me that we have reached a point in our self-assurance at which that is something we should be prepared to accord them.

I make all these preliminary remarks simply because I hope that from the deliberations of this committee would come some of this leadership of Canadian public opinion away from the natural and major instinct to criticize the United States in favour of something more balanced and more appropriate to the true facts of the situation. As a businessman, I have never quite understood how it makes much sense to spend a good part of one's time criticizing one's best customer. One does not do that in commercial practice and it never has seemed to me to have made much sense in political terms, even though it may well have been understandable at the time it was done.

I hope I am not being too broad and too general. I did not bring a pile of statistics, but I came in hopes that I could answer questions and engage in discussion. However, before opening up for general questions, perhaps I should just make a few points as President of the Aluminum Company of Canada which, if they do nothing else, will at least make my bias toward this matter you are considering rather clear.

To begin with, there are more than 10,000 Canadian jobs that depend upon the U.S. market for aluminum.

The Chairman: That is only the U.S. portion?

Mr. Culver: That is just the U.S. portion. We have approximately 20,000 people working with Alcan in Canada, and I am not sure what the numbers of our competitors are, but I would say that of the total 22,000 or 23,000 people there must be at least 10,000 whose jobs depend on sales to the United States. The majority of these jobs are in the province of Quebec, in areas in which alternative employment is not plentiful, and the rate of unemployment, as you know, is quite high in that region. While Canadian aluminum still flows to many other markets around the world, the relative importance of the United States market continues to grow. There are a number of reasons for this, which we can get into. There is regionalism, national self-sufficiency, exchange problems and the like, which tend to cause the European supply to come from Europe and the Pacific supply to come from the Pacific. Thus, as we develop the aluminum industry in Canada, we find in our long-range and even medium-term planning that more and more of it is destined for the United States market.

The Chairman: So, in your industry the famous diversification, the third option, is not yet evident?

Mr. Culver: It is not yet evident for Alcan of Canada.

The Chairman: I should not have said "yet".

Senator Connolly (Ottawa West): But you have had a pretty diversified market in the United States and in Europe. Is your market not about the same in both areas?

Mr. Culver: Our total market as a group is, but for the aluminum we produce in Canada the United States market is far, far larger than the European market. There is little Canadian aluminum going to Europe at the moment. There is some going to the U.K., but not very much, and there is a large volume going to the United States, and this will continue. While there have been irritants to this trade in the past, by and large the United States market has granted to Alcan a better deal than have our other trading partners over time. Sure, there have been some instances which were quite exciting and troublesome at the time, but by and large the United States market has given Canadian aluminum a better deal than have our other major trading partners. The United States has also given us freedom to invest in the United States, thereby making it possible to integrate forward and thereby to ensure continued access. If we can earn our way into the market in the United States, we are permitted by their policies to do so.

The Canadian aluminum industry would never have started—I should not say "would never have started", as lots of things might have happened, but it started as a result of U.S. capital; it expanded as a result of U.S. and U.K. capital, particularly U.K. capital during World War II, which we should not forget. That is one of the reasons we continue to offer some of our aluminum in the United Kingdom, although at times we might do better by selling some of it somewhere else. We are not sentimentalists; we are businessmen, but, on the other hand, there is room for sentiment in business and quite often it is good business to show some sentiment. The U.K. provided the capital which built Shipshaw and greatly expanded Arvida, and we recognize that in our commercial policy even today.

Senator Connolly (Ottawa West): Both of those locations?

Mr. Culver: Yes, sir. We started with U.S. capital; we grew with U.S. and U.K. capital; and from now on it is hard for me to see how we could continue to grow without U.S. capital.

Some of you may have noticed that on Friday afternoon Alcan announced that it will be coming out with an underwritten issue of five million common shares, three million of which will be offered in the United States and Europe and two million of which will be offered in Canada. This is a major equity financing, the first one that we have been able to get this close to—we have not done it yet—in about 20 years. It deals with the essential problem of all industry today, which is the eroded capital base. If this issue is successful it will permit Alcan to continue to grow in Canada. It is very difficult for me to visualize how these things could happen if we were not given the free access to the U.S. capital market that we are given. All we have to do to get scarce capital in the United States is to compete for it. This is a tremendous advantage to us in Canada and it is not a condition that prevails in many countries of the world today.

Senator Connolly (Ottawa West): Because of foreign exchange controls?

Mr. Culver: And no restrictions against a foreigner going to the market in America, as against an American firm doing the same thing. All you have to do is compete for the capital that is available. After the terrible inflation we have had in recent years, there is not that much capital around. So this is of tremendous advantage to a company such as Alcan, and, if you detect a bias on my part to be somewhat pro-U.S. in my views, these are some of the reasons why I feel that way. This access to the U.S.A. represents many other advantages to Canada, which can be summed up by—once again, I am sorry if I keep going back to the testimony of Mr. Beigie, but I found it very interesting and I suspect some of you did also, and I am trying to tie in some of the points I am making with his testimony. When he said that the free market removes from you the independence to be inefficient, this was quite a fundamental statement. These things I have been talking about, which have served to give to the Canadian aluminum industry this deep access to the United States market, in effect, have done the same thing. Once we are thoroughly and deeply committed into a big market like the United States we have in fact lost the independence to be inefficient, if I may go back to that phraseology. So we must be efficient, and that means that the low costs and low prices that come from efficiency in the United States are available to the Canadian market at the same time, something which might not be the case if we did not have that access and had to live entirely within the confines of the smaller market in Canada.

Mr. Chairman, I would rather answer questions, because I am always afraid that if I keep on talking I may be getting on to subjects which are not of interest, whereas, hopefully, if we deal with questions they will be of interest. We can provide any amount of statistics on exactly what our sales have been and why they go up and why they go down. I would be quite happy to get on to other general subjects, such as our view of the multinational company question; the question of whether Canada should support the United States attempts to codify in some way the rules for multinational companies and host countries; and the question of international commodity agreements. I would be quite happy to talk about the objectives of my company, how we describe them, and why we set them the way we do. I am at your disposal to talk about a number of subjects.

The Chairman: Before turning the questioning over to Senator Connolly, I wonder if you would give us a thumbnail sketch, just in two or three minutes, of the highlights of your corporate structure and your approximate sales, not in detailed statistics but to the nearest $10 million, both in Canada and elsewhere in the world, and the degree of agregate control of the company at the moment so far as Canada is concerned, dealing with it as a Canadian company, just to set the stage from which we can go on and discuss the various things you have mentioned.

Senator Macnaughton: The theory being that you are the No. 1 Canadian company. You are, are you not, in size?

Mr. Culver: I think it depends on how one judges size. It is not a statistic I pay much attention to, senator. But I would think of the non-banks and non-insurance companies, we are certainly one of the top.

Senator Macnaughton: One of the great companies—put it that way. We can agree on that.

Mr. Culver: On that we can agree, yes.

Senator Bélisle: Is your volume greater than Inco?

Mr. Culver: I would think so, yes.

Alcan Aluminium Limited is a holding company, and is the company whose shares are listed on the stock exchanges in Canada and elsewhere in the world. It is purely a holding company and it operates through a number of subsidiary companies in Canada, the United States and elsewhere in the world. The major one of those subsidiaries is the Aluminum Company of Canada, which represents about 60 per cent of the total business of the group worldwide. The Aluminum Company of Canada operates smelters and fabricating plants in Canada, fabricating plants in the United States, bauxite and alumina plants in the Caribbean, and a variety of chemical plants in the province of Quebec, the chemicals being largely related to the aluminum industry.

The total sales of the group are $2½ billion; the total sales of the Aluminum Company of Canada, $1½ billion, and of that $1½ billion, approximately $600 million to $650 million in the United States, the balance in Canada and elsewhere in the world.

The Chairman: Approximately what percentage of the American market do you have?

Mr. Culver: Just under 10 per cent.

The Chairman: The ownership of the parent holding company is what percentage Canadian?

Mr. Culver: It fluctuates with the free flow of shares back and forth across the border, but roughly 47 per cent in Canada, roughly 38 per cent in the United States, and the balance in Europe, and now starting in Japan, a small percentage.

The Chairman: Is the Aluminum Company of Canada a wholly-owned subsidiary of that holding company?

Mr. Culver: That is right.

The Chairman: It is not itself a public company?

Mr. Culver: It is not itself a public company, no.

Senator Connolly (Ottawa West): Mr. Culver, you mentioned when you touched on the history of the company that originally the capital to establish the group of aluminum companies of Canada came partly from the U.K. and partly from the U.S. Was it more of a U.S.-sponsored exercise?

Mr. Culver: Yes, Senator Connolly. In fact, all of the capital at the start came from the United States.

Senator Connolly (Ottawa West): From Alcoa?

Mr. Culver: Yes.

Senator Connolly (Ottawa West): From Pittsburgh.

Mr. Culver: That is right.

Senator Connolly (Ottawa West): Then as you developed and needed more capital—and you particularly mentioned Shipshaw and Arvida—you say that development capital came mainly from the U.K.

Mr. Culver: Yes. This was the 1939 burst of expansion of the aluminum industry which already existed in Arvida but was greatly expanded by a factor of about ten times during World War II using for that purpose U.K. capital.

Senator Connolly (Ottawa West): We remember Mr. C. D. Howe's interest in the development of Shipshaw, particularly, because that operation was vital to the war effort. It was also vital to Canadian production and really to production in many other parts of the world, too. However, it went on, and when was it finished?

Mr. Culver: In 1943.

Senator Connolly (Ottawa West): About half-way through the war.

Mr. Culver: I think that is correct. I think I am right in saying that 43,000 individuals at one time or another worked on that Shipshaw project and it was built in 18 months, which was a tremendous effort.

Senator Connolly (Ottawa West): Has it been expanded or enlarged since 1943?

Mr. Culver: The Shipshaw power house has not had to be changed in any way as far as I know.

Senator Connolly (Ottawa West): It has stood the test of time.

Mr. Culver: The expansion has come from other power stations built on the Peribonca River in the fifties plus the big development at the very high end, the «Passe Dangereuse» in the mid-fifties. That is the power system which has been the basis for this industry in Canada, a system which lost some of its comparative advantage to the escalating costs of duties and freights and logistics, but one which is now in this day of energy problems regaining its competitive advantage.

Senator Connolly (Ottawa West): So one *sine qua non* of the aluminum industry is plentiful power, and you found it here in Canada.

Mr. Culver: Yes, that is correct.

Senator Connolly (Ottawa West): More particularly at Shipshaw and Arvida. I don't want to divert from this trend of thought, but what other power centres were there available in the world to the aluminum industry? In other words, what competitive power sources do you face in the world?

Mr. Culver: As of today, senator, or as at that time?

Senator Connolly (Ottawa West): Well, perhaps both, but I suppose that there were developments in the Scandinavian countries, were there not?

Mr. Culver: Yes.

Senator Connolly (Ottawa West): Particularly.

Mr. Culver: Yes, before and since. The big development in the northwest of the United States, which was very economical power—

Senator Connolly (Ottawa West): Do you mean Grand Coulee?

Mr. Culver: Yes, sir. That was available at that time.

Senator Connolly (Ottawa East): Is the aluminum industry there?

Mr. Culver: Yes, sir.

Senator Connolly (Ottawa West): I was at the Grand Coulee with a geologist one time. It is a fascinating place to see. It is a tremendous development and it is so much easier to see it, because you do not have to go to Shipshaw or Arvida. You are travelling, perhaps, to seattle, and you can go that way. That was done with public funds, was it not?

Mr. Culver: Yes.

Senator Connolly (Ottawa West): That was in the days of F.D.R., was it not?

Mr. Culver: Yes.

Senator Connolly (Ottawa West): I want to come back to the raw material aspect, and perhaps I should preface my remarks by saying that you have quite well discerned that our terms of reference in this committee are Canada's dealings, and particularly our market relations, with the Americans. This is the touchstone upon which everything turns, really, in our discussions in this committee.

It seems to me that a great deal of input to the establishment and development of the aluminum business in Canada, through your company, came from its close association with the Aluminum Company of America—with Alcoa—and that there were great advantages that flowed from that connection. Perhaps, having said that, you might take off.

Mr. Culver: Well, if I may, I would like to spend a few minutes on the past history of this matter.

You are absolutely correct: it was the Pittsburg Reduction Company, in the late 1890s, that first thought of coming to Shawinigan and creating a small, but, in terms of the industry in those days, a significant aluminum smelting operation. This business was developed by Alcoa up until Alcan Aluminium Limited was founded in 1928. At that particular point the managers of Alcan Aluminium Limited, the new company, were all Alcoa trained people; they had grown up with Alcoa. The expression in those days was, "they were on the raft"—They had been set afloat from the mother company and they were "on the raft."

There were a number of reasons for this split-up, some of which are more obvious than others. Most people assumed that it was an anti-trust dominated decision, but I understand that that is not entirely true. This all happened well before my time, but, as I hear the history, that was not the total reason. There were personal reasons. There were differences of attitude between the two Davis brothers, who were quite different in age and in approach to things, and one way to solve the problem was to give the younger brother his own show to run in his own way.

Senator Connolly (Ottawa West): Were any of the Mellons involved in this?

Mr. Culver: The Mellons were involved as backers, but not as managers.

From 1928 there continued to be a common shareholding interest, in the sense that some of the same individuals and trusts held shares in both Aluminum Co. of America and Alcan Aluminium Limited. There were no common directorships and no common management, but, in theory at least, if certain holders of large blocks of shares of Alcoa had decided to show up at an Alcan Aluminium Limited meeting and vote their shares in a way that would suit the purposes of Alcoa, they could have done so. This is what was changed in the 1950 decision of the U. S. courts. Those significant shareholding groups were given ten years in which to dispose either of their Alcoa shares or of their Alcan shares; and during the period of that ten years the court appointed three directors to vote those shares. The shareholders lost the right to vote the shares as from day one, and the right to vote those shares was vested in these three directors.

For a man of my age, and of Mr. Vaillancourt's age, of course, that was a great opportunity, because here we had a completely separate company, a company that had struggled in red figures during the thirties, a company that had started to get into the black just in the 1936-1937 period, that had started to hire a few people in 1938, and that lost most of them during World War II. Then we came along in the post-World War II period, when the company was large, and the management ranks were very sparse. The people of my generation have had a great opportunity in Alcan as a result of this split-off of Alcan from Alcoa.

We spent many years after World War II trying to convince everybody that we were no longer part of Alcoa, but to this day I still run into people who say, "Oh, yes, well, you are really part of Alcoa. We know you are separate, but we know you are part of Alcoa."

The fact of the matter is that Alcoa is our most respected but most severe competitor and, as I was saying to Mrs. Seaborn before the hearing commenced this afternoon, the dumping case that was initiated by Alcoa in 1973 against Alcan was a very awkward and difficult irritant at the time, but if it did one thing, I think it convinced some people that the two companies were not one and the same. We are totally different in mind, in heart and in spirit. We feel totally Canadian, and they feel totally American. We come within a whisker of matching them some years in sales and size, and we intend to show that the child can outgrow the parent.

Senator Connolly (Ottawa West): It is obvious, from what you have said, that with regard to capital requirements Alcoa is not behind you; you do not need Alcoa, but you can and do use the American market as well as the Canadian market, and this most recent issue of equity shares that you announced last Friday, as you said, will be subscribed for two-fifths in the United States, two-fifths in Canada—

Mr. Culver: Yes. The way it is set up, there are 3 million shares that will be offered in the United States and abroad, and 2 million in Canada. There is free movement of these shares, but the hope is to maintain our Canadian shareholding distribution.

Senator Connolly (Ottawa West): What is the Canadian position now in the Aluminum Company of Canada?

Mr. Culver: The Aluminum Company of Canada is totally owned by Alcan Aluminium Company Limited, which is about 47 per cent owned by Canadians.

Senator Connolly (Ottawa West): With 38 per cent in the United States and 15 per cent elsewhere.

Mr. Culver: Yes.

Senator Connolly (Ottawa West): This is somewhat parenthetical, but when I was a boy at college, studying chemistry, we called this metal "aluminum". Then we were told that it should be "aluminium". You call the parent company Alcan Aluminium, while the operating company is the Aluminum Company of Canada Ltd. Perhaps you had better give us some instruction as to the reason for this.

Mr. Culver: The friendly folkfore is that it was originally the Aluminium Company of America, but when they first had their stationery printed the fellow left the "small i" off, and they did not have enough money to have it redone. That, as I say, is the friendly folklore. Be that as it may, the metal is called "aluminum" in the United States, and it is also called "aluminum" in Canada; but in the rest of the world the metal is referred to as "aluminium." Seeking always to differentiate ourselves from the Aluminum Company of America, right from the beginning we called ourselves "Aluminium Limited".

The Company was founded under the name "Aluminium Limited"—it changed its name the "Alcan Aluminium Limited" in April 1965.

Senator Connolly (Ottawa West): Perhaps I am taking too much time on this, Mr. Chairman, and if I overstep the mark, please stop me. In the early days you talked about the dependence of the Canadian operation on foreign capital, and I take it that it was all or practically all United States capital in the first instance and largely British capital in the Wartine development stage. As a result of that, were there advantages that flowed to the Canadian establishment from Alcoa in addition to the opportunity to find capital for needed expansion? Were there opportunities? Were there developments in the field of technology? Were there new processes and new methods? Were there new products? You say that originally there were engineers "on the raft" that presumably came from Pittsburg but also from other affiliates, probably, of Alcoa. Were there other advantages in those days which assisted in the establishment of the Canadian operation?

Mr. Culver: Yes, sir. I would say that in the whole of technology, taken in its broadest sense—in management technology as well as research technology and development technology—science is generally an open society in the United States. When the electrical and mechanical engineers have these big conventions, most scientists feel that it is in their interests and in the interests of their

country for an open policy to be maintained in the discussion of problems and opportunities and the like. So Alcan over many years has had access to those types of meetings through their memberships in these associations.

Senator Connolly (Ottawa West): Where was the research done in those days? Was it done in the United States?

Mr. Culver: The early research in the aluminum industry was done in the United States and in Europe, and when Alcan had enough money to start to set up its research institutions, it set up two in Canada and one in the United Kingdom, and that still exists today.

Senator Connolly (Ottawa West): But they have research facilities in the United States too?

Mr. Culver: Alcoa does, but Alcan does not.

Senator Connolly (Ottawa West): But there was a stage when the research was done entirely in the United States and the Aluminum Company of Canada benefited to a great extent by the flow of technology from those sources, is that so?

Mr. Culver: Yes. Some of it was on a licence basis, they made us pay for it, but it was available.

Senator Connolly (Ottawa West): But the very fact that you were affiliated to Alcoa gave you some access to it and perhaps prior access—that is to say, prior to other competitors.

Mr. Culver: I must say that at this point we are talking about a period before my time, so I am not really sure of this.

Senator Connolly (Ottawa West): But one would presume so.

Mr. Culver: Yes, one would presume so, but it might well be that the efforts of separating the two companies at that time were such that there was not as much of it as one might have thought.

Senator Connolly (Ottawa West): When did Canadian research begin?

Mr. Culver: During World War II and thereafter, in Kingston in 1942 and in Arvida in 1946.

Senator Connolly (Ottawa West): It was going on there during the war because I remember I went through the plant with the then Navy Minister who was the member at that time.

Mr. Chairman, I wanted to talk about raw materials and bauxite, but perhaps some one else would like to follow on that at this stage.

Senator Rowe: In the production of aluminum you have to import bauxite, I believe, from Jamaica and other Caribbean countries, and when Newfoundland was still independent of Canada you had to bring in fluorspar from there. In your production, do you have to import anything from the United States?

Mr. Culver: Yes, we bring in petroleum coke and anthracite from the United States. These are used to make the anodes and cathodes which we need. I think we could get it elsewhere, but we do in fact get it from the United States.

Senator Rowe: Would it be fairly substantial in dollar value?

Mr. Culver: Yes, it would represent about $10 million par annum. For every pound of aliminum we make we use .4 of a pound of this type of product.

Senator Rowe: So that the Canadian enterprise is in one sense of benefit to the United States from that standpoint—that is to say, providing a market for some commodities from the United States.

The next question I am going to ask, I hope you will appreciate the spirit in which I ask it because it is not asked in any cynical kind of way. You spoke of the "generosity"—and while you did not use that word, I am using it—of the United States in its attitude towards Canada and towards your company. Is there anything to indicate that the United States was ever motivated by anything except self-interest in that attitude towards Canada? Have we been singled out for special treatment through the goodwill of the United States?

Mr. Culver: I have spent a good part of my working life trying to convince the Americans that they need aluminum from Canada, that we are natural suppliers to their independent fabricators, and that if it were not for a company like Alcan the independent fabricators would have to buy from the integrated producers with whom they compete and there would be all kinds of difficulties. I fancy myself as quite an expert at making the point that it is in the best interests of the United States to have a strong aluminum supplier in Canada. If I took the approach before, Mr. Chairman, of leaning rather heavily on the side I did, it was because this, in fact, is the first time I have ever had an opportunity to sound off about this tendency of Canadians to take this knee-jerk reaction to be anti-U.S. any chance they get. You are quite right in what you say; there are benefits to both sides in this relationship of Alcan and the United States. If that were not the case, I doubt if it would be a stable arrangement.

Senator Rowe: I understood you to say that your sales in the United States represent 10 per cent of the total aluminum consumption there. What about the other 90 per cent?

Mr. Culver: Regarding the other 90 per cent, the biggest element there is Alcoa, the Aluminum Company of America, followed by Reynolds and Kaiser which are both American firms. Then you have some smaller firms that are American and some smaller firms that are foreign. Among the smaller American firms, you have Amax and you have Revere. Until a year or so ago you had Olin, but Olin sold out to a Swiss company. So you have the Swiss producer operating in the United States, and it is quite a large enterprise; and you have a French producer who operates in the United States, an operation of some size. So that 90 per cent is divided up between a reasonable number of strongly supported enterprises.

Senator Rowe: But of all these suppliers outside the United States from whom the United States buys, yours is probably the biggest single entity.

Mr. Culver: Oh, yes. I can give you the figures of Alcan's proportion of the total imports of aluminum into the United States. I have the actual figures here, but they range between 80 per cent and 60 per cent in most years. Last year I believe it was only 50 per cent, possibly because our own subsidiaries in the United States reduced their inventories very sharply, perhaps even more sharply

than did the industry as a whole, but we will get that back this year.

Senator Carter: Mr. Chairman, Mr. Culver spoke of his American counterpart as his main competitor. Now, both companies have to import their raw material, bauxite. What advantages do you have in Canada to offset the advantages that your competitor has in the United States? How do you manage to compete?

Mr. Culver: The big advantage that we have in Canada is in the cost of energy. Our big disadvantages are freight, duty and the fact that the average age of the Canadian plant is now greater than the average age of our competitor's plants. So much of Alcan was built during World War II, and is now 35 years old, that while it still is operated by dedicated people who produce good aluminum out of it, the productivity is not as good as that of a new plant. This is what we hope to get on with, from this issue to which I referred earlier. We hope that if this issue goes successfully we will be able to modernize and thereby get our productivity in Canada up to the same level as that of our competitor in the United States. It is just a matter of investment; we have the technology and it is just a matter of finding the funds to invest. It is one of the hangups of our accounting procedures. One of the hangups with modern managers, is how you justify tearing down an old plant, which nonetheless is producing a saleable product, and build at today's costs a whole new plant, which will produce, granted, a little more of the same product and give better working conditions and greater productivity but the extra amount you get for that huge investment does not look very good on the traditional basis of discounted cash flow.

The Chairman: Perhaps we could touch on one other item closely related to that, that is wages and the general productivity of labour in Canada as opposed to your American competitors.

Mr. Culver: Well, sir, to begin with, Canadian workers in the aluminum industry are very good workers, as good as can be found anywhere in the world and certainly better than can be found when starting off in a new location. People do not realize that a community that has lived with the aluminum industry, somehow or other in some mysterious way produces people who are more effective in that industry than would be the case in going to a new area and starting with people who would not be used to the industry. So the Canadian aluminum worker is a good worker. Provided he has the capital and technology behind him, there is no problem.

Our wage rates have reached a point at which they are in some instances ahead of our competitors in the United States.

Senator Macnaughton: How much ahead?

Mr. Culver: Well, it is a little difficult when we get into this area, but this is particularly so in British Columbia, where we have at Kitimat a substantial number of employees. The last contract terminated on October 24, 1975, which in terms of the Anti-Inflation Board was a rather significant date. However, the fact of the matter is that because those wages were higher than Alcoa pays in the United States already, any increase in those wages of more than, say, four per cent to five per cent was going to increase the gap between Canada and the United States. So we had to tell our people in Kitimat that it is not a matter of having a control program, but that we are just not willing to pay more—well, we settled on 8.9 per cent for the first year and 6.5 per cent for the second year. That is a pretty good settlement in Canada today, but even that settlement will tend to stretch the difference even more between ourselves and Alcoa. In the East our wages are slightly less than those of Alcoa, but we are in negotiation now and when that ends we will certainly be close to Alcoa's level. So I do not think there is much to choose between our wages in Canada and those in the United States. Some of the unions are the same in both countries and there is a free flow of information across the border.

Senator Belisle: In view of the fact that you have a large payroll, you must have a large turnover. For example, Inco has to advertise throughout Canada and even around the world in order to get workers. Are you satisfied that even with this unemployment rate you still have to search for miners?

Mr. Culver: Well, miners we are not dealing with, except in Newfoundland. In the province of Quebec we have very little labour turnover. Our problem in Quebec is that we do not have sufficient work for those willing to work. It is quite different in Kitimat; everything is different in that province and there we have a high turnover, despite the high wages. Kitimat is not everyone's cup of tea as a place to live. It seems remote, and it is fairly remote, and we developed a pattern in the early days of receiving young men from Europe who came to Kitimat in order to build up some capital. Once they had earned the capital, down the coast to Vancouver they went and sent home for their wives. So you are quite right: where wages are high, so is the turnover high.

Senator Belisle: It is not only the nickel industry, but the uranium industry to which you referred. However, my question has to do with the union. Do you have the same union, or do you prefer a longer contract, of three years or two years, if you can, for all the mines you control?

Mr. Culver: We do not have the same union in all our plants and we do not have one contract for all our plants in Canada. We have a union representing the workers in Kitimat, under a two-year contract signed in November. We have two separate unions in the smelters in Quebec. We have the CNTU in Shawinigan and we have the FSSA in Arvida.

Senator Carter: You say your plant is of second world war vintage. Have there been many improvements in the manufacturing processes since then? If you build a new plant now, would you use the same process with different machinery or would you use a completely new process?

Mr. Culver: You use the same process, in the scientific sense. The chemistry and the thermodynamics of it will be the same, but the efficiency will be much greater, the use of energy will be more efficient, the working conditions will be a good deal better, and the external environmental conditions will be a good deal better. There has been a steady, slow series of improvements to the same basic process. We did spend nearly $50 million on a fundamentally different way of making aluminum, but we finally came to the conclusion that even if we could solve the remaining problems it would not be that much better that what the old process had become in the ten or twelve years during which we were trying to make the new process work. We continue to examine fundamentally differ-

ent ways of making aluminum, but, mind you, they all require power. There is no way we can see of getting away from the use of electrical energy.

Senator Carter: Power is one of your greatest costs?

Mr. Culver: Power would certainly be the greatest capital cost. If you build your own power, the capital cost is immense.

Senator Rowe: I have heard the aluminum industry criticized in that of all the major industries it is the one in which the number of jobs provided vis-à-vis the amount of power or energy used is the lowest. Is that a correct statement? I know that in the paper industry every kilowatt of power used produces more jobs than in the aluminum industry, but is it so serious in respect of the aluminum industry as people seem to say?

Mr. Culver: There is no question that in making the original pound of aluminum the use of power is high and therefore the number of jobs is low per unit of energy consumed. It is capital intensive and power intensive to make a pound of aluminum the first time. The beauty of aluminum in this day and age however is that it is eminently recycleable; you can use it over and over again without losing the power that was put in there the first time. It only takes 5 per cent of the original amount of power to recycle aluminum from scrap into a reuseable form again. So you can argue for aluminum on that basis. And since aluminum is light in weight, its use saves energy in all manner of ways. So it depends on when you take the photograph. If you take the photograph at the moment the original pound of aluminum is made it has used a lot of energy and capital and has not provided that many jobs at that point.

Mr. Chairman, that brings me to another subject which I really did want to mention. Because aluminum ingot is a raw material to most businesses, since it is what they start off with, aluminum ingot is regarded by many as a raw material. Actually, it is a manufactured product. Apart from a little fluorspar from Newfoundland, it uses nothing to speak of that comes out of the ground of Canada. We do not have the raw materials in Canada to make aluminum; we have to import them. So it is a major manufacturing industry using imported raw materials to turn out a manufactured product. The value added is between the import of raw material and the basic pound of aluminum ingot. If we then take the pound of aluminum ingot and roll it into a pound of sheet, the popular concept is that we have added a lot of value and provided a lot of jobs. Well, we have just built a new, very modern rolling mill in Kingston, Ontario, which can roll 150,000 tons of aluminum sheet per year. It provides 165 jobs. But back in the Saguenay there are going to be 2,250 men working in the cheminal plants and in the smelters to produce that 150,000 tons of ingot for the rolling mill in Kingston.

The Chairman: So 2,250 men produced the basic product, and it takes only 1/15th as many people to so-called "process it" into sheet.

Mr. Culver: Yes. If you then take the sheet and in some way colour it and paint it and make it into something very special, then your job content changes again.

Senator Carter: For example, if you make siding.

Mr. Culver: It does not take too many people to make siding.

The Chairman: That is a very interesting analogy, Mr. Culver. As a British Columbian I should like to thank you for that analogy, because I have a comment which I often make to friends of mine who, if I can use the term, have a knee-jerk reaction to job-intensive industries, and your remark was so significant relative to the involvement of labour in this processing factor that with respect to knee-jerk reactions to job-intensive industries I think it can be said that if job intensivity is the only criterion, then the finest economies in the world are those of India and China. But those statistics were, to me, quite fascinating.

Senator McNamara: Mr. Chairman, if I may ask a supplementary on Senator Carter's question, I wonder if Mr. Culver could tell us if the sources of bauxite are controlled by the various companies which are competitors of his, or if there is a free market for bauxite.

Mr. Culver: The short answer, senator, is that it is in the process of changing from being controlled to being some kind of an open market. Traditionally, in the industry the integrated companies found bauxite, invested in its exploitation, controlled its export and made it part of an integrated system. That was the only way in which an industry could have grown up that could take four pounds of bauxite from, say, West Africa and ship it one-third of the way around the world to Arvida, put it through a complicated chemical plant to produce alumina, put that alumina through an electrolytic reduction process to produce aluminum, ship the aluminum half-way around the world and sell it for 25 cents a pound. That is what we did for many, many years. Today we are selling it for 43 cents a pound. The only way you could go through that tremendous operation, which might take four to six months, involving working capital costs and the like, and deliver aluminum for such a low price was to fully control the integrated operation from the start.

The world has now changed and the countries which contain bauxite are largely tropical countries and, with the important exceptions of Australia and Brazil, are largely lesser-developed countries. They are seeking now to get more for their bauxite and they are going to try to interrupt that integrated chain. The way they look at it is, "The reason we have not done better is that it is controlled outside." Bauxite is a very plentiful material.

Senator Connolly (Ottawa West): I guess they have heard about the Arabs!

Mr. Culver: They may have heard about the Arabs. I have spent a little time in some of those countries and one cannot help sympathizing with their desire for more money. There is so much that needs to be done in those countries, there is no question about that, but it remains to be seen whether taking these—and I am not saying "taking" in the sense of confiscating. What I am saying is that it remains to be seen whether removing in one way or another these integrated operations from a total system and saying, "We are going to sell our bauxite for what we can get for it," will produce for those raw-material countries the benefits they are counting on.

Senator Macnaughton: Would you name those countries?

Mr. Culver: Well there is an organization known as the International Bauxite Association, the members of which include the Caribbean countries and the West African countries. The Australians take very much the same approach as we would be inclined to take in this country.

They have joined but have expressed the view that the rights of the consumer must be respected. Brazil has not joined because consumers are not represented.

Senator Connolly (Ottawa West): Where do you get your bauxite?

Mr. Culver: Some of our bauxite comes from the Caribbean in the form of alumina. Very little of this alumina comes to Canada, but it goes to our European affiliates. Bauxite also comes to us from Boké, which is in Guinea, in West Africa, in increasing amounts, and a lot of that is coming to Quebec right now. In addition we are opening up in partnership with the Brazilians, and other companies, a very large bauxite operation in the Amazon region, in Brazil, which will come into operation in about 1979, and which at that time will be the major source of bauxite, we expect for Canada.

Senator Macnaughton: I was just wondering whether you were expropriated, or, shall we say, nationalized, and whether you have been paid in the interval, or whether you are still buying from Jamaica and Guyana, and other places.

Mr. Culver: I will have to take those places one by one.

We came to an agreement with the Guyanese government in 1971 whereby they purchased 100 per cent of the operations that were in Guyana at that time.

Senator Macnaughton: And dig they pay for it?

Mr. Culver: Well they paid for it with notes that come due some time, which do not bear very much interest, and of course there is a withholding tax on the interest that they do bear; but in accounting terms we did not have a write-off. In other words, we got paid on book value for these operations, and I must say it was an arrangement which, under the restricted circumstances, we were satisfied with. Since that time the Guyanese have gone into the world to sell their bauxite and to sell their alumina. Unfortunately, the timing was not in their favour because the industry fell on tough times, with the result that Guyana has received less per pound for its bauxite and its alumina since 1971 than they probably would have received if they had stayed a part of the Alcan system. But they are running the plants quite adequately, we are on friendly terms with them, and we certainly buy from them when we are in the market, because their prices are reasonable.

We could have a whole session on Jamaica, but that is not what we are here to talk about. We are still in negotiation with the Jamaican government. We still own the facilities in Jamaica, and we are hoping for some kind of an arrangement which will satisfy them and which will permit us to some of their material.

The Chairman: In a word, the availability of bauxite is not a thing that is of concern to you; there is lots of it in the world?

Mr. Culver: There is a lot of bauxite in the world.

Senator Macnaughton: But I was thinking of your prior investment.

Mr. Culver: Well, we were expropriated in Guinea some years ago after we had spent about $24 million on a project there, but time heals many wounds and we are now back there, along with a lot of other people, as investors. The world of raw materials is a very strange one.

Senator Rowe: When you were expropriated, were you given a fair return?

Mr. Culver: No. At that time, in Guinea, we were just thrown out.

The Chairman: Honourable senators, we should try to keep this discussion to Canada-U.S. relations as much as possible. It would be fascinating to get into the field of expropriations in the Third World, but we could be all afternoon on that. We still have a long way to go on the Canada-U.S. aspect.

Senator Carter: Our concern here is Canada-U.S. relations, and I do not think we should get too far off the track.

Your exports have fluctuated quite a bit from year to year. In certain years you have been up, and in certain others you have been down. What problems do you encounter in your trade with the United States, whether tariff or non-tariff? Just give us a rundown of he difficulties you have.

Mr. Culver: By and large, the fluctuations you refer to are just reflection of the fact that this is quite a cyclical industry. In the years where our customers are adding to their inventory we seem to ship quite a lot, and in the years when they are working them down we ship a lesser amount.

I do not think one should read into those fluctuations the suggestion that irritants are at work, and that in some way the policy of the United States government is leading to these changes. By and large it is purely commercial factors that are causing this situation. We have gone, unfortunately for this industry, through periods of a great deal of severe price competition, and there have been times when we were not interested in accepting some of the prices we felt we could obtain. We felt we would rather keep the product than sell it.

Senator Carter: When you say the industry is cyclical, are you referring to surpluses and scarcities?

Mr. Culver: What I mean is that the demand for aluminum is not steady, year in year out. The The over-all growth rate over time has been quite steady, and quite pronounced at around 7 per cent; but around that 7 per cent trend line have been these big fluctuations largely caused by commercial factors, the chief of these being a situation in which users of aluminum want to build up their inventories to more than they are currently using, or where they want to cut them back to less than they are currently using.

Senator Connolly (Ottawa West): For them it is a question of capital availability.

Senator Carter: I was asking you about the difficulties that you have.

Mr. Culver: As I say, we have not had too many difficulties. We had the dumping charge in 1973, but we continued to carry on business in the normal way while that case was being adjudicated. Fortunately, what was then the Tariff Commission, which is now called, I think, the International Trade Commission, found that there had been no injury.

The Chairman: Now that we are starting these meetings at 3 o'clock, instead of 2 p.m. or 2.30 p.m., it compresses our time somewhat. Our subject is Canada-U.S. relations,

and I commend Senator Carter for getting us back on the track. We should, I think, try to confine ourselves for the next hour to matters related to Canada-U.S. relations, especially with regard to this huge company that is involved so much in our trade pattern with the United States, including the question of raw ingots, the levels of processing, when tariffs start to come on and when they do not, and the degree to which your substantial subsidiaries in the United States enable you to penetrate that market because of your operations down there, as opposed to simply standing at the border and offering your product.

I make these general remarks not with the object of expecting the witness to answer them all at once, but to ask senators if they would confine their questions to that area. These aspects are fundamental to what we are discussing, and we do not want to have the witness come back.

Senator Macnaughton: Mr. Chairman, you have anticipated the question I wanted to ask about subsidiary operations in the United States. I wanted to ask about the advantages, which you yourself mentioned at the beginning, which accrue to Canada from your being a multinational corporation.

Mr. Culver: You can regard the aluminum-using industry as being roughly equally divided between what we call the sheet part and the extrusion part—the sheets being rolled and the extrusion being that wonderful process like squirting toothpaste through a tube whereby you can quickly and cheaply produce a shape in aluminum, depending on the shape of the hole you squeeze it through, and whereby you can even produce hollow shapes. It is, as I say, roughly fifty-fifty, and traditionally in the United States the 50 per cent extrusion part has been a field with many independent producers. So when we in Canada look south of the border and say, "Who are we going to sell to obviously the best people for us to sell to are those independent operators who produce extrusions. There have always been a large number of those; they have been able to compete with the integrated producers in service and in size, and we have had no difficulty in feeling that provided we were efficient and gave good service we would find a ready buyer in that section of the industry.

But not so on the sheet side. The sheet side is capital intensive and so, when competition became very severe in the 1950s and the early 1960s in the United States, the independent sheet-rolling industry was slowly being squeezed out of business, not because of anything dishonest, but simply because of straight efficiency and competitive factors. The integrated producers were more efficient and were prepared to take lower margins, and bit by bit the independent sheet rollers ran into difficulties. At that point we said, "Well, either we will have no independent sheet rollers left in the United States or we are going to have to do something." So we pretty well convinced most of the independent sheet rollers to join together with us in building an efficient rolling mill in Oswego in New York State. These were all American firms and it was their market, and there was no way we could have convinced them to put that mill across the border in Canada. But we did put it as close to Canada as we could, which was Oswego, New York, a very efficient place to reach from our smelters in Canada. But this only worked for a few years because the heat continued to rise in the sheet industry in the United States and it soon became apparent to these partners of ours in the venture that they could not survive even with that common rolling mill which gave them an efficient start to their sheet-rolling operations, but did not finish it for them. So, at that point we had no choice but to buy out the independent sheet rollers in the United States from this plant. From that day on Alcan was a full-fledged investor in the fabricating industry in the United States and we have gone on from there taking advantage of what I talked about earlier, namely the freedom to invest permitted by the United States. We have gone ahead and built an integrated sheet-rolling business of our own in the United States which competes fully now with Alcoa, Reynolds, Kaiser and the rest. That is the specific story of how we got started in this.

Many times I have been asked here in Ottawa, "Why don't you make that sheet here in Canada and sell it as sheet?" The answer is that history was against it; the tariff was against it. The margins were so narrow on sheet products in the United States that the difference between a one-cent-a-pound duty on ingot going into the United States and two-cents-a-pound on sheet going into the United States does not sound like much, but when perhaps the best thing you are going to do is to make one cent or two cents, the difference becomes considerable.

Senator Macnaughton: Can I put a leading question to you here? What do you think of multinational companies in general?

Mr. Culver: Well, senator, this will get me off Canada-U.S. relations.

Senator Macnaughton: Does it? We have several multinationals between the two countries, and you have a large market in Britain.

The Chairman: I think it could come within the scope of our study of Canada-U.S. relations, Mr. Culver, to this extent: could you really be a multinational, which I believe you are, if it were not for that relationship?

Mr. Culver: From what I said earlier, it is obvious that, without our access to the United States market and all that that has meant, I do not think Alcan would be a multinational to start with. It would be a purely domestic Canadian company and probably would be one which would come to Ottawa and ask for high duty protection for Aluminum. So we became multinational with assistance from the United States and later with assistance from the United Kingdom. I think that our being a multinational is good for Canada, and the thing that I deplore is the tendency to say, "the multinationals" and treat all multinationals as being the same kind of animal. There are law-abiding individuals who are good people and there are law-abiding individuals who are not so good people. We all know some of both. It is exactly the same with the multinational companies. Most companies are a direct reflection of the ethics of the man running the company and, therefore, you will find among the companies the same spread of ethics and morality and other things of basic importance as you will find among individuals. So it always grieves me—and it is usually the professors who used to mark me down in college for not being acurate—to hear people speak about "the multinationals". If we can assume that we are talking about law-abiding multinationals with high ethical standards, then their main role in life is to share knowledge and co-operation and to do so with an open heart and an open mind. As such, they simply have to be a force for good in the international exchange of goods and services. They must be. They also have to be an asset from the point of view of growing people, which

is one of the great challenges to all enterprise—that is, to grow people quickly. You do not find in the good multinational companies people who restrict the exchange of knowledge because it leaves them with power and influence. You usually find that they are people who share knowledge. So, in the United States-Canada context, if what we seek is the free exchange of ideas and stimulation on technology and so on, then there can be no better instrument for getting that process going than good multinationals.

The Chairman: Is there a definition of "multinationals"? How many countries does a company have to operate in before it becomes a multinational?

Mr. Culver: Quite honestly, senator, I have not thought about it, but I would say it is much like many other things; it is more an attitude of mind than, perhaps, a statistical figure. However, I would find it hard to create the attitude of mind that I associate with multinationalism if a firm were not dealing in at least three different countries.

Senator Macnaughton: That leads me to my next question, which has to do with lobbying in Washington. You are not alone, of course; it is quite legal and registered and everything else. Could you tell us if there is any value in that, and why you do it?

Mr. Culver: What we have done over the past years is to have in Washington one man of very high calibre who is there as a source of information with respect to our business and as a reference point. We have only had two such people in my 27 years with Alcan, and the first one was there for 18 or 19 years. So I am trying to give you the impression that we do not go in for either hiring outside services or quick changes of people and we are not looking for dramatic results.

Senator Macnaughton: Well, you understand my question; it is not critical. I am asking for information, because if labour unions and other groups can do that, I do not see why industry should not do it also. As a matter of fact, it is almost a service organization, properly stated.

Mr. Culver: Both our representatives, the previous one and the present one, are extremely good at reporting on events in Washington, which are always very, very fascinating.

Senator Macnaughton: When it comes to research and development, what percentage of your budget do you allocate?

Mr. Culver: We are spending in the order of $20 million a year on research at the moment. That is on sales of $2.5 billion, if you wish to relate the two figures. The control factor on research is not money, but people. If we wished tomorrow to spend $40 million in 1977, we would not be able to do it because we would not be able to find that quickly the right kind of people and set them up with the right questions. Getting value for research is a matter of asking competent people the right questions and it is amazing how hard it is to ask the right questions in the field of technology itself. That is our position; various people have slightly different biases. I am very much in favour of technology and I would like to see us go further in that field.

Senator Macnaughton: You just have to, do you not?

The Chairman: With respect to that point, would it not be interesting to hear from this witness what the reaction of his company would be to a significant tax benefit given by the federal government in favour of research? I know you cannot double it overnight, but it could go on an upward slope. Would your industry and your company provide, sir, a greater percentage of your gross investment in research than is done now?

Mr. Culver: Unquestionably we would benefit, provided it were maintained consistently over a period of time. It is not a stop and go proposition.

The Chairman: So a further tax incentive would see you spending more and you would benefit from that?

Mr. Culver: Unquestionably so.

Senator MacNaughton: Would you say that taxation is heavier on your company in Canada than it is on your American competitors in the United States?

Mr. Culver: Senator, we did some research on this in 1970 and 1971 and I know you have heard testimony on this point from other witnesses. By and large, yes; we do feel that taxation in Canada is higher and over a period of time consistently higher than it is in the United States. As I say, four or five years ago we carried out quite a study as to what percentage of our profits we pay as against the percentage paid by our American competitors.

The Chairman: I have no one else on my list of questioners just at the moment, so I wonder if we could return to the whole question that seems to be uppermost in the minds of Canadians today. That is the business of being hewers of wood and drawers of water. I have a built-in prejudice the other way, coming from British Columbia. I do not think it is so bad to pursue our resource industries. You have made the very good point already that your is really already a manufactured product when it is in its raw state, namely the ingot, as opposed to a conventional product. However, I believe that "ingot" in the minds of many people is at best the same as pulpwood before a certain amount of processing. You mentioned the sheet metal rolling process where the extra cent of tariff goes on, and the extruding with respect to the difficulty of exporting extrusions into the United States, where different companies are doing their little things with extrusions. But do tariffs go on beyond that? How would you function in a North American free-trade area? Would you find more of this extruding coming into Canada? We would like to hear any further thoughts or statistics you might have relative to this fascinating one you gave a few minutes ago whereas in order to employ only 150 more people to process in rolling you employ 2,000 more in the primary area. That whole area is fundamental to our study and is one which we would like you to develop for us to a fairly full degree.

Mr. Culver: May I start by relating an incident that occurred in a group known as the Pacific Basin Economic Council? Incidentally I believe Canada's participation in that council was assisted greatly by a previous hearing of the Senate.

The Chairman: They held another meeting in Vancouver, but, unfortunately, I had to be here.

Mr. Culver: At one of the early meetings of the Pacific Basin Economic Council an Australian delegate was making the traditional value-added approach, the same one that a succession of our Ministers of Industry, Trade and Commerce have been making and, particularly,

making at the Japanese. After this Australian chap had got to the end of his point, one of the old Japanese steel industry leaders raised a question. He said, "I find it hard to understand why value inefficiently added in Australia is going to do anything for you." So after that there was a long, awkward pause. He then said, "The point I am trying to make is that if you are blessed with an efficient resource possibility, are you not better off to concentrate on developing that than you are trying to lose some of that efficiency margin that nature gave you by inefficiently adding value?" "It is very difficult to efficiently add value in a country like Australia. This is the point I was trying to make." This could be similar to the problem we have in Canada. Again I think Mr. Beigie was talking about this when he said that as far as he could see in the future—which is pretty far, I would think, considering he is a young man—the so-called resource industries are what will pay the bill in Canada.

Going on from there to the question of continentalism, if you like, in the aluminum industry, you have to then look at that and say, would that add to efficiency of manufacturing in Canada. If the answer is, yes if it could be done in a way which would add to productivity/efficiency in Canadian manufacturing industries, well, then, that is value that is being efficiently added. Rather than talking about seeking value added, I think we should start by saying that we seek value efficiently added, and make sure we go after the conditions which will permit the efficiency. Then I am sure that we are getting a net gain. Otherwise we run this risk of frittering away some of our advantages by striving to add value when we cannot add that value as well as somebody else can.

Senator Macnaughton: During your opening remarks, Mr. Culver, you said that after the tremendous inflation there is not that amount of capital around. Is that from David Rockefeller?

Mr. Culver: I am afraid that does not sound like very good English, but I guess I did say it.

Senator Macnaughton: David Rockefeller said the same thing recently.

Mr. Culver: I believe that inflation has destroyed personal capital as well as public capital as well as corporate capital. We have all lost. This was a bit of a shock, because it was common thinking in Alcan some years ago that our power advantage made us inflation proof to some extent. What actually happened was this: Sure, our power did not go up in cost during the inflation period, but our working capital went through the roof, and all our capital went into working capital and we did not have capital around to do some of the basic things that would have been good for the country and good for the company. So I made that point in the context that, given that situation, is it not even more noteworthy that the United States puts no restrictions on a company like Alcan going in, as we are hoping to do within weeks, going into the U.S. equity market for a substantial amount of equity capital. As long as we can compete for it along with the other American companies, they say, "Go to it, and the best man will get the equity."

Senator Barrow: But you still have an advantage over the American companies because of your resource of energy, do you not?

Mr. Culver: We have that advantage, but we have been losing it because of the inflation in the logistical costs.

Senator Barrow: Which they are subject to also.

Mr. Culver: They are subject to it, too, but we do move our material further than they do, both on the incoming side and on the outgoing side, and we do have the basic duty which we have to pay on everything going into the United States, the $20 a ton or one cent a pound. That amounts to $8 million to $10 million a year right there.

Senator Barrow: Is there a restriction on quotas?

Mr. Culver: Not on quotas. No, there are no restrictions on quotas going into the United States.

The Chairman: If we could just pursue that for a moment, on the tariffs am I correct in my understanding that there is a one-cent-a-pound or $20-a-ton American tariff against our ingots?

Mr. Culver: That is right.

The Chairman: And that goes up to double that in the case of sheet?

Mr. Culver: Correct.

The Chairman: How much further does it go up in case of extrusions and eventually pots and pans, I suppose?

Mr. Culver: It then jumps into the 9 per cent area for extrusions, and some of it goes up as high as 17 per cent for painted items etc

The Chairman: Siding?

Mr. Culver: Something of that sort, yes.

The Chairman: How would you visualize the health and long-term development of your industry in Canada if either in your industry alone or across the board there was no tariff between the United States and Canada in respect of your products?

Mr. Culver: The easiest way to answer your question, senator, is to say that there is every argument in the world for it at the ingot level. I can give you a string of arguments in favour of it at the ingot level. Total free trade at the ingot level in North America, or in the whole world, would be extremely beneficial to Canada and very beneficial to Alcan. When you then move from there to a sector approach with total free trade in all aluminum products, the first thing I have to say at this point is that I can speak for Alcan but not for all our customers in Canada who may have very strong views of their own on this. But my answer from Alcan's point of view is that we have not been immune to the pressure on us to add value in Canada, even though I have tried to make an argument in logic against it. We have felt a lot of that pressure and over the past ten years have responded to it to the extent that when I wrote to the Canadian Trade and Tariffs Commission in August of last year, for the first time, and after considerable thought, I said "thus we seek free trade in primary aluminum while requesting continued protection for domestic fabricating and manufacturing operations."

To my knowledge that is the first time that any document with Alcan's name on it has ever taken a both-sides-of-the-street approach, and I can assure you that it is a position which was taken only after the most agonizing appraisal.

Mr. Davis, the Chairman of Alcan Aluminum Limited, has consistently said that we would take our chances on any system that moved in the direction of free trade. That

has always been our traditional policy, and he permitted me to make this statement at that time after a great deal of soul searching on his part, justified largely because our public authorities cannot have it both ways either. They keep pressing us to make investments in Canada, to avoid imports and the like, but then you find yourself in this kind of situation.

The Chairman: Could you develop your rational on that somewhat for me? You have mentioned the one cent additional tariff in the United States levy on rolled sheet in a tight-market situation as you have with rolled sheet as being your margin of profit, making it difficult to export that into the United States. If that tariff were not there, why would you not open up a larger market in the United States for rolled sheet?

Mr. Culver: With respect to my earlier remark about the one cent, there is a timing problem here in that recently the margins are greater than the one cent so that the one cent does not loom as large as it did over a long period leading up to 1974. After all, these big decisions are made against long-term backgrounds. Right at the moment if someone were to say the margin is better than one cent, he would be correct. But I want to make that clarification.

What we have in fact done is invest in the front rank of rolling technology, the latest we can devise including some things not generally available, both in Oswego, New York, and Kingston, Ontario. Both those rolling mills are right up-to-date. They both have new mills that started within the last few months. They both have a great deal of spare capacity. The operators of those two mills co-operate with one another very closely. I will be very surprised if, given the current situation, we do not start to see some specialization going on between those two plants, as a result of which some of the sheet products that we need in the United States will be rolled in Canada, and the extra cent will be absorbed. I am not sure that the jury has come down on that question totally.

Secondly, at the time we put traditional rolling mills into Oswego, New York, and Kingston, Ontario, we took a technological flier in Arvida and put in a completely different type of rolling mill which takes molten aluminum that comes right out of the smelters and turns it into sheet in one operation.

Senator Connolly (Ottawa West): For the Canadian market, or for the export market?

Mr. Culver: Originally it was for the Canadian market, but now we are finding ways in which we can send some of that to the U. S. as well. This is a different kind of product, but it is quite promising and quite exciting, and is being produced to the tune of about 70,000 tons a year, approximately, this year; so it is not just a small laboratory scale affair.

Senator Connolly (Ottawa West): This may be a simplified concept of what you do, but am I correct in thinking that you produce your raw material here, which we call ingot? You have modified that a bit and said that you do not always go to ingots before you get to sheet because you can produce the sheet without the ingot; but let us take it from the point of view of the ingot. Those ingots are available to the Canadian finished product business, and you know what type of product the market requires. Your business is to look at the market, you are an integrated company, and so you look down to the end product and you say, "We will shape our establishment to conform."

Being a multinational operation, and operating in the United States, which is a bigger market, and perhaps a market with different characteristics, what you are able to do there, to get the maximum value for yourselves out of that market, is to shape the product that you produce in such a way that it will get the maximum receptivity in that market, so that perhaps some of that know-how, which meets the demands of the American market, flows back into Canada to diversify your product in Canada as well. The big market that you are able to take advantage of, because you have the operations beyond the ingot stage, allows you to produce products beyond the ingot stage so as to satisfy the immediate demands of the American market. That is a situation which applies in other countries as well.

Is that not the great advantage in having a Canadian multinational building up the export side and taking advantage of the American market, with all its diversifications and ramifications? Is that a fair kind of statement?

Mr. Culver: I am sure that is fair, Senator Connolly, and I think it is very well put, if I may say so. All I would add is that we know that international trade has been growing faster than most national economies, and having multinational companies means that Canadian enterprise has the opportunity of getting into the faster growth areas.

Senator Connolly (Ottawa West): It is very important to this committee to have that observation.

Senator Macnaughton: According to information I have, you sell in the U.S. market at least 202,000 tons more than you do in Canada. For example, if you sell in Canada 248,000 tons, in the United States you sell 450,000. So you can see the importance of the U.S. market.

Mr. Culver: Oh yes.

The Chairman: Apart from the United States facility you have in Oswego, which, as you explained, is basically a sheet rolling process, do you have other subsidiaries in the United States doing further processing, and carrying your product to further points of acceptability for market purposes down there? Also, is there any comment you could make on the advantage they give you in maintaining that huge export into the United States, of the raw product?

Mr. Culver: Well, we have a very big building products business in the United States, which is based upon the sheet that in turn comes from Oswego and two other rolling mills which we have in the United States, one in Ohio and one in West Virginia. They are not big mills, like the one at Oswego, but they are specialized mills. That sheet then goes to be painted and formed, and sold as a variety of building product which we market throughout the United States. We have a whole series of service centres and mobile home service centres, and small staging points, where we can do a minimum amount of cutting and bending to supply the specific needs of the manufacturer down the road and collect the money he owes us, which is another big part of the problem. We therefore have a big building products range.

We also have an electrical bare and covered wire and cable business, both in the eastern states and out in California, with a total of three plants and a fourth one starting. The raw material for that is rod or wire bars, which is made in Arvida and shipped down to the United States for further manufacture into the kind of wiring that has

caused so much debate in connection with household wiring, and the like.

We also have a specialized business in various kinds of powders—particularly aluminum powders, but also other powders. We also make pastes which are the basis for automobile paint and things like that.

We do not make any extrusion to speak of in the United States, because that is where we have those independent customers I talked about, that we do not choose to compete with in this case.

The Chairman: Mr. Culver, this leaves me with an earlier question still not clear in my mind. The United States government, in its wisdom, sees fit to put one cent on ingots because there is a degree of manufacturing there. We can forget about that for the purposes of my question. Then it goes up two cents on sheet, nine percent on extrusions, and on and on and on. They must do this for a reason.

I would appreciate your guesstimate as to the percentage of this higher level of processing you just described in the United states that could be brought back to this side of the 49th Parallel, while still maintaining the market, if those tariffs were not in place.

Mr. Culver: It is very difficult, Mr. Chairman. It is judgmental.

The Chairman: It is totally judgmental, quite, but it is so much in the minds of Canadians today that we have to try to get to the bottom of it.

Mr. Culver: I would hate to see us deceive ourselves into feeling that if we paid a very high price in some way in order to achieve, let's say, total free trade in the products we are talking about, both ways, that things are suddenly going to change, or even that over time there would be a tremendous change in the location of manufacturing facilities. The reason I say that is that basically the farther down the line one goes, the more it is a local service business. That is the problem.

Senator Macnaughton: Mr. Culver, you have discussed the Aluminum Company of Canada smelter fabricating bauxite. The one thing you have not discussed is the chemical side. How large an operation is that, and how important is it?

Mr. Culver: The chemical side is large in terms of tonnage. I suppose we sell to ourselves and to others more tons of chemicals than we sell tons of aluminum, because some of them are quite bulky. We are only in that part of the chemicals business that is related to the products that we need to make aluminum in the first place. We are not diversifying into the chemicals business as a conscious policy. It is a substantial business, nonetheless, and some of it is for export, not only to the United States, but to other countries. Largely, it is surplus to what we need ourselves that we export.

Senator Connolly (Ottawa West): Is there anything that you manufacture in Canada, including chemicals, that you do not manufacture abroad?

Mr. Culver: Yes, some of those chemicals we certainly do not make anywhere else but in Arvida. The reason for that was the remoteness of Arvida in the early days and the wartime background, I am not trying to say that we are inefficient in our chemicals operation. I do not want to give that impression. It is simply that Alcan has always concentrated on being a major manufacturer of aluminum. Not all our competitors have taken the same approach. Because we have concentrated our funds, such as we could find, and the capital we could raise on the aluminum business, we have not sought to diversify into the chemicals field, which we could do if we decided to look at it in a different way.

The Chairman: Are there any further questions?

Senator Molson: Are there any tariffs on aluminum, ingot or product, coming into Canada?

Mr. Culver: By and large, it is the reciprocal of the U. S. What I might do is give you the figures relative to the United States and Canada and, for comparison purposes, the EEC and Japan. The first figure I will cite is the duty coming into Canada; the next is the duty going into the United States, followed by the duties on aluminum products entering the EEC and Japan. When I say that by and large the United States has treated us better than our other trading partners, these figures will provide you with some way of judging it.

On basic ingot, one cent, one cent, 7 per cent and 9 per cent; on rod, which is the starting material for the electrical wire and cable, Canada, two cents; U.S.A. two cents; EEC, 12 per cent; and Japan, 14.4 per cent; angles, shapes and sections—these are the extrusions we were talking about—Canada, 12.5 per cent; U.S., 9.5 per cent—we have a higher duty coming into Canada than is the case on exports to the United States—EEC, 12 per cent; Japan, 14.4 per cent; sheet and plate, Canada, two cents; U.S. two cents; EEC, 12 per cent; Japan, 18 per cent.

The Chairman: I wonder if we might have that document for our record, Mr. Culver?

Mr. Culver: Yes.

Senator Molson: As I understand it, you have a difficult problem in moving middle management between the United States and Canada because of the tax differential situation and the relative cost to the company of these salaries. Do you find it very difficult to move people into Canada, for example?

Mr. Culver: Yes, we do, senator. Without suggesting that everyone works for money alone, in the middle management area, particularly with the younger middle managers, the ones who really have their eye on getting somewhere, they do tend to put a great deal of emphasis on what they are paid after taxes. It is not only because they want the money, but that is the way in fact they they keep score on their progress. So, we have had difficulties because of the considerably higher salaries we would have to pay in Canada in order to match the after-tax salaries in the United States.

Senator Molson: There is quite a gap still from where you sit?

Mr. Culver: A big gap, yes. To some extent, it is one of the inflationary aspects of high taxation.

Senator Carter: Dealing with that point, the extra benefits such as medicare and so forth, in Canada do not appeal to those individuals?

Mr. Culver: Not to these individuals, senator. They are not even that interested at that stage of their lives and careers in what their pensions are going to be.

The Chairman: Honourable senators, I wonder if I might have your permission to have an informal chat with Mr. Culver and Mr. Vaillancourt following our meeting, with the aim of having the company economist prepare a chart dealing with the number of jobs involved at different points of processing and the capital required per job at those different points. Such a chart would expand on the testimony given earlier by Mr. Culver in relation to the 150 jobs in a rolling mill accounting for 2,000 jobs at an earlier stage. That is quite startling and would be very startling to many Canadians who think automatically that the reverse is true.

If I may, honourable senators, I will ask Mr. Culver whether it would be possible to have such a chart submitted to the committee and, if so, we perhaps should have it appended to the proceedings of today's date rather than when submitted.

Senator Carter: Mr. Chairman, I wonder if I might inquire of the witness as to the average capital investment per job in the company. Do you have any figures on that, Mr. Culver?

Mr. Culver: Not that I can give you off the top of my head, senator. If one were to include the basic power investment as well as the raw materials, the chemicals, the smelters, I think we are talking of the order of $5,000 of investment in today's dollars per ton of aluminum. One man will produce in that kind of a plant 180 tons a year, so 180 times 5 is $900,000 per job.

Senator Carter: Almost $1 million per job?

Mr. Culver: Yes that is correct.

The Chairman: We will ask them to develop this for us in more detail so that it can be laid before the Committee and attached to the minutes of our proceedings.

Mr. Culver: It is very capital intensive.

The Chairman: Are there any other questions? —If not, on your behalf I thank Mr. Culver very much for coming here today, taking time off from a very busy schedule, and being so frank and forthcoming in all his answers to us. It is very helpful to us, I am sure, In what we are trying to grasp and grapple with and get our arms around, this huge industrial relationship between Canada and the United States. It has been most helpful. Thank you very much.

Mr. Culver: Thank you, Mr. Chairman. I wish you great success in your work. It is very important.

Senator Macnaughton: We wish you well tonight!

The Chairman: Honourable senators, our next meeting will be on Thursday morning at 9.30 in room 356-S rather than 256-S.

The committee adjourned.

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THE SENATE OF CANADA

PROCEEDINGS OF THE

STANDING SENATE COMMITTEE ON

FOREIGN AFFAIRS

The Honourable GEORGE C. van ROGGEN, *Chairman*

Issue No. 36

THURSDAY, MAY 27, 1976

Thirty-third Proceedings on:

Canadian Relations with the United States

(Witnesses—See Minutes of Proceedings)

21680—1

THE STANDING SENATE COMMITTEE
ON FOREIGN AFFAIRS

The Honourable George C. van Roggen, *Chairman*

The Honourable Allister Grosart, *Deputy Chairman*

and

The Honourable Senators:

Asselin	Lafond
Barrow	Laird
Bélisle	Macnaughton
Cameron	McElman
Carter	McNamara
Connolly (*Ottawa West*)	Rowe
Croll	Sparrow
Hastings	Yuzyk

Ex officio Members: Flynn and Perrault.

(Quorum 5)

Order of Reference

Extract from the Minutes of Proceedings of the Senate, Wednesday, November 6, 1974:

"Pursuant to the Order of the Day, the Senate resumed the debate on the motion of the Honourable Senator van Roggen, seconded by the Honourable Senator Riel:

That the Standing Senate Committee on Foreign Affairs be authorized to examine and report upon Canadian relations with the United States;

That the Committee be empowered to engage the services of such counsel and technical, clerical and other personnel as may be required for the purpose of the said examination, at such rates of remuneration and reimbursement as the Committee may determine, and to compensate witnesses by reimbursement of travelling and living expenses, if required, in such amount as the Committee may determine;

That the papers and evidence received and taken on the subject in the preceding session be referred to the Committee; and

That the Committee have power to sit during adjournments of the Senate.

After debate, and—
The question being put of the motion, it was—
Resolved in the affirmative."

Robert Fortier,
Clerk of the Senate.

Minutes of Proceedings

Thursday, May 27, 1976
(44)

Pursuant to adjournment and notice the Standing Senate Committee on Foreign Affairs met at 9:35 a.m., this day.

Present: The Honourable Senator van Roggen (*Chairman*), Barrow, Cameron, Carter, Connolly (*Ottawa-West*), Croll, Grosart, Lafond, McNamara, Rowe and Yuzyk. (11)

Present but not of the Committee: The Honourable Senators Bell and Molson. (2)

In attendance: Mrs. Carol Seaborn, Special Assistant to the Committee; Messrs. Bill Neil and Robert Robichaud from the Library of Parliament, Research Assistants to the Committee.

AND ALSO: Mr. John Bonus, Managing Director, Mining Association of Canada.

The Committee continued its study of Canadian Relations with the United States.

Witnesses: Mr. Alfred Powis, President, Mining Association of Canada, who is also the President and Chief Executive Officer of Noranda Mines Ltd.; and Mr. Keith C. Hendrick, President, Noranda Sales Corporation.

Agreed,—That a series of eleven tables, which were referred to by witnesses, be included in these printed proceedings (*See Appendix "A"*)

Agreed,—That supplementary information, that may be developed by the witnesses later, be affixed to this day's proceedings as *Appendix "B"*. (*See Tables 12 & 12A*)

At 12:20 p.m. the Committee adjourned to the call of the Chairman.

ATTEST:

E. W. Innes,
Clerk of the Committee.

The Standing Senate Committee on Foreign Affairs

Evidence

Ottawa, Thursday, May 27, 1976

The Standing Senate Committee on Foreign Affairs met this day at 9.30 a.m. to examine Canadian relations with the United States.

Senator George van Roggen (*Chairman*) in the Chair.

The Chairman: Honourable senators, before introducing our witnesses, I would just like to say that we will be continuing our consideration of Bill C-20 next week, starting at 10 o'clock on Tuesday morning and going through the day if necessary. Should it be necessary to sit a second day, we will try to finish it on Wednesday afternoon. The witnesses will be from the Department of Justice, dealing with the three points that we raised at the last meeting relative to clause 33, concerning provincial land restrictions. The Canadian Bar Association has evinced an interest in coming before us, although I will not know until this afternoon how many witnesses they wish to bring, or whether or not they wish to deal with one or all of those three main points. However, even though the Senate will not be sitting next week we will be sitting at 10 o'clock on Tuesday.

This morning we are fortunate in having before us Mr. Alfred Powis, President and Chief Executive Officer of Noranda Mines Limited, one of the largest multinational—if we can define that term—mining companies of Canada, and which is also off into a few other odds and ends, such as the lumber and plywood field. Mr. Powis is also here in his capacity as President of the Mining Association of Canada, the hundred-odd member companies of which account, I believe, for 95 per cent of Canada's output of metals and related industrial materials.

Mr. Powis is a native of Montreal and was educated at McGill University. He has worked for, I think, 21 years with his company, and was appointed president and chief executive officer in 1968.

The corporate structure of this company is immense, as any cursory examination of the record will indicate. I am not going to try to unravel it; I will let Mr. Powis deal with it in his opening remarks.

The one thing I would ask honourable senators this morning is to try to keep in mind the nature of our study. The evidence of Mr. Culver, the President of the Aluminum Company of Canada, on Tuesday was very helpful and fascinating to the committee, but there was an all too human tendency to find the structure of his company itself so fascinating that for a short time we lost track of the type of evidence we really wanted to get relative to our relations with the United States. In this case, again, we have the chief executive officer of one of the most fascinating companies in Canada with us, and I am sure we could spend the whole time available to us discussing his company and how it operates; but we do want to try to get as much information as we can from a man of Mr. Powis' expertise on his company's operations vis-à-vis our relationship with the United States, and, of course, the situation of mining generally vis-à-vis our trade with the United States.

If Mr. Powis is prepared to give us a brief opening statement, Senator Grosart has kindly agreed to lead off the questioning.

I might say that Mr. Powis is accompanied today by Mr. Hendrick, the President of Noranda Sales Corporation.

Mr. Alfred Powis, President and Chief Executive Officer, Noranda Mines Limited; and President, Mining Association of Canada: Thank you, Mr. Chairman and honourable senators. We would like to thank you very much for the privilege of appearing before this committee today to discuss trade relations with the United States as they affect the Noranda group and the various industries in which we operate.

As you know, Noranda is a Canadian-owned and managed company which fundamentally operates in three businesses: mining and related metallurgical operations; manufacturing, which is usually an outgrowth of mining; and forest products.

In common with most Canadian resource-based companies, the U.S. market is of critical importance to the Noranda group. In fact, without access to this market some of our operations simply would not exist.

In addition, while most of our facilities are in Canada, we also have important and growing operations in the United States itself. Aside from a substantial exploration program, these presently include two small mines, six manufacturing plants, a paper mill, an aluminum smelter and over 80 distribution warehouses.

To put the Noranda group's involvement with the United States in perspective, we have prepared two tables relating to our $1.6 billion of gross revenues in 1975, and I believe copies have been distributed.

The first of these tables indicates that our U.S. operations themselves generated 15 per cent of our 1975 revenues—insignificant in the case of mine products but 22 per cent of manufacturing revenues and 32 per cent of forest products sales.

The Chairman: I might just interrupt you here to ask if it is agreed that these tables be included in the record of today's proceedings?

Hon. Senators: Agreed.

The Chairman: I would suggest that they be not included at this point but that they be attached as an appendix to the record of today's proceedings.

(*For tables see Appendix "A", at page 36:27.*)

Mr. Powis: The second table relates to our $1.2 billion of gross revenues generated from Canadian operations. This indicates that 16 per cent of our Canadian production of mine products was sold in the U.S., 6 per cent of our manufactured products and 27 per cent of our forest products.

In addition, we market various products for a number of other companies, which in 1975 had an aggregate value of $250 million. Of this total, $77 million, or 31 per cent, was sold in the U.S.

It should be noted that 1975 was not a vintage year in terms of selling in U.S. markets, and these figures are considerably below what we would consider normal or satisfactory. Thus, they actually understate the past and potential importance of the U.S. market to the Noranda group.

Quite obviously, U.S. trade policy and the state of U.S.-Canadian relations are of critical importance to Noranda and to Canadian industry generally. For this reason, we are very pleased that this committee has seen fit to examine these matters.

It as been suggested to us that your committee might be interested in our views on a number of specific matters relating primarily to mine products, and we propose to make brief opening comments on several of these. However, we would like to start with three general observations.

First, of all of Canada's trading partners, it is our experience that the U.S. is most ready to recognize the Canadian interest in dealings between the two countries. The structure of our trade in mine products with the U.S.is of a nature which many Canadians would perceive as being more desirable than the structure of our trade with either Europe or Japan.

Secondly, Canada has enjoyed a significant advantage as an exporter to the U.S., especially during the period of the so-called special relationship. In fact, frequently U.S. buyers would not differentiate between Canadian and domestic suppliers. This was partly due to proximity, partly due to our common language and heritage, and partly due to a reputation for reliability and political stability. However, events of recent years have tended to erode this competitive advantage, for better or worse, and trading relations with the U.S. will likely require more attention and skill than has been needed in the past.

Thirdly, Canadian policy seems preoccupied, perhaps with some justification, with what is perceived to be an excessive dependence on trade with the U.S. This has given rise to vigorous efforts to diversify our trading relationships. These efforts may be worthwhile in themselves, but it is inconceivable that they can alter the fact that the United States is, and will remain, our biggest and most reliable customer. Our concern here is that efforts to expand or develop other trading relationships should not be at the expense of efforts to maintain the best possible trading relations with the United States.

With this as background, we now propose to deal with the specific questions of market access, comparative costs, comparative tax structures, further processing and free trade from the view point of our companies and industries. Of course, books could be written on each of these subjects and our remarks will necessarily be somewhat superficial, but we hope they will be useful in terms of provoking further discussion.

To put the question of market access in perspective, it is useful to remember that the basic situation of the United States is significantly different from that of Europe or Japan, which must import nearly all of their requirements of many basic materials. The United States itself is a major producer of most natural resource products—it is, for example, the world's largest producer of mine products and is a substantial net exporter of some of them.

We have prepared a table, table 3, which shows the U.S. position in 1974 for the three non-ferrous metals with which Noranda is mot heavily involved—copper, zinc and lead. This indicates that U.S. mine production accounted for about 80 per cent of its requirements of primary copper, about 70 per cent of its requirements for lead and about 40 per cent of its primary zinc requirements. It also indicates that the Canadian share of net U.S. imports of these products is very high—about two-thirds of the total on a weighted-average basis.

Senator Connolly (Ottawa West): I am sorry to interrupt at this point, but you mentioned something about 40 per cent. You say that the U.S. imports 40 per cent of something?

Mr. Powis: No, senator, the U.S. produces about 80 per cent of its requirements of primary copper. Its mine production of zinc at 494,000 tons represents about 40 per cent of its consumption of 1,375,000 tons, and in the case of lead its 669,000 tons of mine production is about 70 per cent of its consumption.

This means that imports of many resource products are merely a supplement to their own very substantial production. This has an impact on the structure of their trade barriers because, for example, they do have a domestic mining industry to protect. It also has an impact on the pattern of Canada's trade in resource products with the U.S.

It is our experience that the use of non-tariff barriers in the United States is considerably less troublesome than in Europe or Japan. Techniques such as cash deposit requirements, specification changes, government procurement programs and informal quotas have not been serious problems in terms of our dealings with the U.S.

However, we do face some problems in the area of non-tariff barriers which can be summarized as follows:

1. From time to time, we have faced formal import quotas on certain mine products, notably lead and zinc, during periods when economic conditions created difficulty for U.S. producers. These remain a threat.

2. We have experienced a rash of actual or threatened dumping complaints in recent years. Since Canadian and U.S. prices are generally similar and a tariff plus extra freight must often be absorbed when shipping to the U.S. market, the netback on U.S. sales is frequently lower than in the domestic market giving rise to technical dumping. We have recently fought complaints on potash and lead and we have been threatened with complaints on zinc and sulphuric acid.

3. During periods of deteriorating Canada-U.S. relations we experience harassment at border points and disputes on the clearing of material by U.S. customs.

This sort of problem can be serious in terms of the particular product involved, but the more general problem faced in the U.S. market for mine and manufactured products is the overall tariff structure. As you might expect,

this varies widely depending on the degree of self-sufficiency of the U.S. for the product involved.

For some mine products, the level of tariff protection is so high that Canadian exports are effectively prohibited. Examples are molybdenum, zinc alloys and diecastings—except where related to the automotive industry—and many copper products.

For other products where the U.S. needs imports, tariffs are at more reasonable levels, but they tend to be structured on a basis which encourages imports in the least possible processed form. This is accomplished through escalating percentage tariffs with the degree of processing, and it has been a significant impediment to establishing processing facilities for certain products in Canada.

In lead and zinc, for example, we have fought a continuing battle against the attempts of the U.S. industry—sometimes successful—to have quotas and higher tariffs imposed on metal imports. Only recently, the U.S. suspended the tariff on zinc concentrate but maintained it on metal to assist domestic smelters to compete internationally for concentrates.

In fairness, however, we would confirm Mr. Tom Burns' previous statement to this committee that, while the U.S. tariff structure is weighted against further-processed imports, the extent of this is not nearly as severe as in Europe and Japan.

In terms of cost competitiveness with the U.S., it is our experience generally that Canadian labour is as productive as that in the U.S. given similar equipment and production runs. This means that in the resource industries where our equipment and technology are second-to-none and the whole world is our market, we can theoretically pay similar wages and remain competitive.

However, labour productivity is not the whole story, as the Canadian resource industries are burdened with other costs which tend to be higher than those in the U.S. These result from our long distance from markets, tariff barriers, our climate, our bad record in labour disputes and, of course, our tax structure. The combined impact of these would suggest that wage rates in the Canadian resource industries should be somewhat lower than those in the U.S. if we are to be competitive. The problem, of course, is that our wage rates are higher than those in the U.S. resource industries. For example, wage rates for B.C. miners, which range from $5.59 to $7.26 per hour, are some seven per cent higher on average than those in competitive operations in Arizona, where the maximum rate is about $6.50 per hour. In the B.C. forest industry, wage rates are 18 per cent above those across the border in the State of Washington.

In manufacturing, of course, the situation is much worse. Because of our small and scattered market, we simply cannot hope to match U.S. labour productivity, yet our wage rates are now very close to their highest levels. In these circumstances, a Canadian dollar at a premium in relation to the U.S. dollar is clearly disastrous in terms of our cost competitiveness, and under present circumstances Canada is simply not competitive with the United States, either in the resource industries or in manufacturing. This does not mean that existing operations will go out of business, because they will tend to continue as long as they produce a positive cash flow. But the implications of Canada's lack of competitiveness in terms of new investment are frightening.

For the mining industry, when the bewildering array of new taxes across Canada are superimposed on these problems, the overall impact becomes devastating. As you are aware, the incentives which had previously been available to the industry were largely eliminated in the so-called tax reform exercise. This was serious enough. But when many provinces, motivated in part by the industry's temporary prosperity in 1973-74, added on punitive taxes and royalties which the federal government then proceeded to disallow as expenses, the situation became absurd. In terms of a competitive operation in the United States, we show in table 4 a comparison of the taxes paid under recent conditions by our Brenda mine in British Columbia and the taxes which would have been paid if the same mine were operating in Ontario and Nevada. The effective rate in B.C. is 71 per cent and in Nevada it would be 28 per cent. In table 5 we show the taxes that would be paid by Brenda if present prices doubled and the taxes payable under the same conditions in Ontario and Nevada. The effective rate would be 83 per cent in B.C. and 37 per cent in Nevada. In each case, total taxes are more than double those in the U.S.

Of course, the present B.C. tax system is somewhat extreme, but you will note from the tables that taxes in Ontario are also 50 per cent higher than those in the U.S. When added to our other problems, tax levels in much of Canada make a reasonable rate of return on new mining investment almost impossible. The result, of course, is a winding down of the level of exploration in this country and a drying up of new investment. Under present conditions, the mining industry cannot continue to make a dynamic contribution to the growth of the Canadian economy. To the extent that this is due to government policies, it is incredibly perverse. Mining is one of our few internationally competitive industries, and we will need growing exports of mine products to help cover our developing trade deficit in petroleum products.

Conventional wisdom suggests that Canada has considerable scope for the further processing of our resources prior to export. Perhaps so, but we would suggest that this is more limited than is popularly supposed. Moreover, for mine products, given the decline in the level of exploration and new development in Canada, Noranda's longer-term concern is with the adequacy of domestic production to feed existing smelters and refineries. One of our metallurgical operations is already partly dependent on imported concentrates.

The issue of further processing of mine products really has to be divided into two parts: the smelting and refining of concentrates to prime metal; and the fabricaion of the resulting metal into manufactured products.

In terms of concentrate versus metal exports, we have prepared some tables numbered 6 to 10 to help illustrate the situation for the non-ferrous metals with which Noranda is most heavily involved: copper, zinc and lead. The figures shown in these tables generally relate to primary production only, ignoring secondary materials.

In table 6, we show Canadian production, consumption and exports of these metals for selected years beginning in 1960. From these figures, certain conclusions are obvious: There has been very rapid growth in Canadian mine production of these metals; slower growth in our smelting and refining capacity; a decreasing proportion of our mine production converted to metal domestically; and an increasing proportion of our exports in the form of concentrates.

The Chairman: Excuse me, Mr. Powis; while we can examine these tables later, you are reading the conclusions you draw from the tables from your notes.

Mr. Powis: Yes.

The Chairman: It is a little fast, which makes it difficult for us to follow the tables. Perhaps you could take us through this table, as an aside for a moment?

Mr. Powis: Yes; the significant figures are the percentages in the last two lines under each of copper, lead and zinc. Taking copper as an example, it shows that in 1960 we converted 91 per cent of our mine production into metal. That proportion declined to 61 per cent in 1974. In 1960 we exported 87 per cent of our copper exports as metal. That proportion declined to 44 per cent in 1974. In the case of zinc our proportion produced as metal dropped from 65 per cent in 1960 to 37 per cent in 1974. The proportion exported as metal dropped from 60 per cent in 1960 to 28 per cent in 1974. However, the 1974 figures for lead and zinc are, unfortunately, distorted by the protracted strike at Cominco and probably the 1973 figures are more indicative of the true situation. In lead our production as metal, just taking it out to 1973, dropped from 78 per cent in 1960 to 47 per cent. Our exports as metal dropped from 71 per cent in 1960 to 35 per cent in 1973.

The Chairman: Yes; thank you, I see that clearly now on the chart. What, again, is the reason for that?

Mr. Powis: We can get into many detailed reasons, but the fundamental reason is that our mine production has simply grown more quickly than our smelting and refining capacity. However, there are really regional reasons for this, rather than overall reasons, which I will discuss in a moment.

If, however, this rapid growth in our concentrate exports is regarded as a problem—and there is room for considerable argument on this score—then the United States is not the cause. As shown in table 7, the United States in 1974 accounted for only 6 per cent of our exports of copper concentrate, 19 per cent of our exports of zinc concentrate and 13 per cent of our lead concentrate exports.

Maybe I should stop for a moment at table 7 and explain it. In the case of copper, we show mine production of 929,000 tons, of which 564,000 tons was smelted in Canada, leaving 365,000 tons available for export, of which only 22,000 tons was exported to the United States.

Senator Grosart: Excuse me, Mr. Powis, what distinction would you make between the phrase "consumed in Canada", in table 7, and your phrase "smelted in Canada"?

Mr. Powis: The concentrates were consumed in the smelters; it is the same thing. I had to use a word which would also apply to the metal, because when you get out to the metal the 564,000 tons of Canadian concentrates smelted in Canada resulted in the production of 616,000 tons of metal, the difference being accounted for by some imports of concentrates.

Senator Grosart: But you take that level as consumption.

Mr. Powis: Well, it was consumed in the smelters. Turning to the metal column, in which you see the 616,000 tons of metal production 273,000 tons was actually consumed in Canadian manufacturing operations and 343,000 tons exported. It is probably a little clearer if we go to zinc, where you will see that 1,278,000 tons was produced by the mines; 470,000 tons went into Canadian metallurgical plants; and the balance, of 808,000 tons, was available for export. Taking that 470,000 tons and going over to the next column, as metal, the same figure is used there to begin with; 470,000 tons was produced as metal in Canada; 148,000 tons was consumed; and 322,000 tons was then exported. The point here is that the United States does not account for a very significant proportion of our concentrate exports.

The Chairman: In table 7, as I read it, you are pointing out that the United States takes a huge amount of our metal and little of our concentrate, and it is Europe and Japan which take the concentrate and not the metal.

Mr. Powis: That is correct.

The Chairman: In such simple terms.

Mr. Powis: Yes.

The Chairman: So it is the same as other evidence that we have had, where, in manufactured goods, the United States is our market for higher processed goods, and not Europe and Japan.

Mr. Powis: Yes. That is shown in another way in table 8, where we show the proportion of total exports to the United States as metals as opposed to concentrates. It shows that in the case of copper this proportion has pretty well held its own since 1960. In the case of lead and zinc, it has actually increased quite substantially. The increase you will see in zinc metal exports is quite spectacular, as a number of old and inefficient smelters in the United States have been shut down and Canadian capacity, including our own plant at Valleyfield, has been expanded to fill the resulting vacuum.

The fact is that most of Canada's concentrate exports—

Senator Connolly (Ottawa West): Are you going on to another point now?

Mr. Powis: A related point, yes sir.

Senator Connolly (Ottawa West): It is just a matter of absorbing this, Mr. Chairman, because it is rather important to our consideration. Is it all right to ask a question at this point?

The Chairman: Yes, relative to table 8. I think we should understand the tables as we go through them.

Senator Connolly (Ottawa West): I gather from what you say, Mr. Powis—I do not know which one to pick, but, as the chairman has pointed out, there was a much larger proportion of metal exported to the United States and relatively small amounts to Europe and elsewhere. I take it that, in effect, it means, so far as Canada is concerned, that there is more processing here of the material exported to the United States, and therefore, I suppose, more employment and capital investment here as a result. Is that a fair conclusion?

Mr. Powis: Yes, I think that is a fair conclusion; yes, sir.

Senator Connolly (Ottawa West): And the exports that we make to Europe involve the exportation of jobs, because we are selling there the raw materials which are processed somewhere else.

Mr. Powis: Exportation of jobs? Yes sir; but I think you have to ask how many jobs. I have another table which I did not distribute. Perhaps it might be useful to take a look at it.

The Chairman: Is that the one you showed me before we commenced?

Mr. Powis: Yes.

The Chairman: I wonder if we could come to that later. The witness has some very good evidence on that particular point, Senator Connolly.

Senator Connolly (Ottawa West): Really all I wanted to do was to slow up a little bit. Some of the figures from Mr. Powis come off his tongue trippingly, but I feel a little slow in connection with them.

The Chairman: I think what is clear here has been clear from other evidence before the committee relative to other industries, which is that the United States market takes our value-added goods as well as the raw material, whereas Japan and Europe basically take only the raw materials.

Mr. Powis: The fact is that most of Canada's concentrate exports are confined to two products, copper and zinc. In the case of copper, there is a surplus of smelting and refining capacity in Eastern Canada and our concentrate exports are largely confined to shipments from Western Canada to Japan. This is shown in table 7. Japan actually took in 1974, 83 per cent of our total copper concentrate exports. In the case of zinc, exports are primarily from the Territories to Japan and from Ontario and New Brunswick to Europe.

Thus, our conclusion would be that Canada's scope for increased trade with the U.S. in metal as opposed to concentrates is very limited. As we show in table 9, most of our trade with the U.S. in these products is already in metals. In terms of our prospects for further processing of copper and zinc prior to export to Europe and Japan, it is important to note that the capacity which has been built in those two areas to treat Canadian concentrate tends to be very modern and efficient.

With the incredible escalation that has occurred in construction costs in recent years, new Canadian smelting and refining capacity simply cannot compete with existing facilities in Europe and Japan. Thus, new Canadian capacity only appears viable in the context of expanding concentrate production, and, for the reasons we explained earlier, we are not optimistic that this will take place.

It is worth noting, though, that the deterioration in the proportion of Canada's exports of copper, zinc and lead as metal is not as severe as the 1974 figures in table 6 would indicate. This is partly due to long strikes in 1974 at a major Canadian zinc and lead metal producer, and partly due to recent expansions in smelting and refining capacity which are not reflected in the 1974 statistics.

In table 10 we relate present installed Canadian metal production capacity to 1974 mine production. This indicates that Canada now has the capacity to convert to metal 74 per cent of its 1974 mine production of copper, 55 per cent of its zinc mine production, and 86 per cent of its lead mine production.

In terms of mine products, in theory the real scope for increased exports to the U.S. of further processed materials is in fabricated products. We already have in Canada industries which fabricate mine products to the extent required by the domestic market and which export to some extent. A really significant increase in the level of this type of activity would depend largely on increased exports, which, in turn, would require improved access to markets in other countries.

This leads logically to the question of possible free trade with the United States. Speaking generally, such a development would be of real benefit to Canada's resource industries, which are largely export-oriented and do not need protection in the domestic market.

However, we would be concerned that free trade would require a wrenching and possibly fatal readjustment for much of our manufacturing industry. Having been created and geared to serve the existing Canadian market, at the very least it would have to be largely restructured to compete effectively with the U.S. Unless the other problems referred to earlier were solved, the end result would likely be the removal of much of our present manufacturing activity to the United States.

In summary, we believe that Canada is likely to remain dependent on exports, and that the United States will remain by far our largest and most reliable customer. The United States will continue to be an expanding and secure market for Canadian products. In addition, the fact that the United States is prepared to respect Canada's desire for a clearly separate identity, bodes well for the growth of mature and healthy relations.

However, we do believe that the Canadian case, more than ever before, needs to be presented agressively in the United States by both government and business. We will only avoid actions adverse to our interests if we register our views continually and effectively. We expect that recurring strains in our trade relations with the United States will be characteristic of the years ahead and will require constant attention.

From Noranda's viewpoint, we do have some problems in terms of access to the U.S. market, but in comparison with other parts of the world they are not severe. However, we are deeply concerned about Canada's competitive position at the moment in comparison with the United States, both in terms of our costs and our tax structure. We believe that the scope for further processing in terms of the U.S. market is more limited than is popularly supposed, except theoretically in the context of free trade. We are concerned that while free trade might benefit the resource industries, it would require at the very least a profound restructuring of our manufacturing industries.

Mr. Chairman, we hope that these introductory comments will be useful to you, and we shall be pleased to try to respond to any questions that may be raised, or any other questions you may have.

The Chairman: Before closing your opening statement, I might ask you to come back to Senator Connolly's earlier question, when I cut him off because of the additional table you have not yet put before us. On the question of export of jobs, I understand you have some statistics as to job intensity at two different stages of processing.

Mr. Powis: Yes.

The Chairman: This table is not named as such, but we will call it table 11.

Senator Barrow: Mr. Chairman, do tables 1 and 2 refer to 1975 figures?

Mr. Powis: Yes, they do. They should have been identified as such. I believe in my remarks I identified the figures as being 1975 figures.

The table that has just been distributed, Mr. Chairman, was developed by the Department of Industry, Trade and Commerce. I extracted it from a British Columbia task force report on the copper industry. It shows the value added at different stages in copper processing. I do not know the source of the figures, but they do not quite correspond to our experience.

Senator Croll: What year do they relate to?

Mr. Powis: I do not know, senator. I suppose it might make a difference, depending on the level of copper prices. Just looking at the primary metal stage, what the table does show is that somewhere from 71 per cent to 74 per cent of the value added, or the employment or the wages paid, takes place in the mining and concentrating stage, and only 26 per cent to 29 per cent in the smelting and refining stage.

The first table on that page, which adds in a rod mill and a wire and cable industry, shows that somewhere from 59 per cent to 64 per cent of the total value added comes in the manufacturing area.

From Canada's point of view, the export of concentrates as opposed to metals would involve 26 per cent to 29 per cent of the value added.

Smelting and refining capacity tends to be very capital intensive as opposed to labour intensive. Smelting and refining capacity also produces other problems. There are pollution problems inherent in smelting and refining, and it is a very energy intensive operation. Whether, in fact, smelting and refining is desirable in the Canadian context, as conventional wisdom suggests, is something about which I am very dubious. Also, the exports of concentrates are very regionalized. They are mostly from Western Canada, specifically British Columbia, or from New Brunswick. Most of what is produced in Central Canada, in either copper, lead or zinc, is in fact smelted and refined here and sold as metal.

The Chairman: Would transportation be a factor in this? Would the proximity of British Columbia and the Maritimes to ocean transportation routes be a factor?

Mr. Powis: That is certainly a factor, Mr. Chairman. The British Columbia copper industry, which is really a creation of the last 15 or 20 years, was made possible by Japan's requirements for copper. Without the very generous treatment terms offered by Japanese smelters during this period, a good many of those mines would not have been developed. In addition to generous terms, there was also financial assistance offered by the Japanese smelters.

Senator Connolly (Ottawa West): Were there any cases in which Japanese concerns acquired ownership, equity?

Mr. Powis: There were one or two cases where they acquired minor amounts of equity. Fundamentally, their method of operation was to finance these mines with debt and long-term contracts. On a number of occasions, we have examined the possibility of locating smelting capacity in British Columbia, and each time the conclusion was that we could not possibly compete with the terms offered by the Japanese smelters.

Senator Rowe: When you say "we", you are referring to Noranda?

Mr. Powis: Yes. On the one hand, that was too bad for us; on the other hand, without those very generous terms offered by the Japanese it is questionable whether a number of those mines would have been developed at all. As the table does indicate, through the prime metal stage, Canada is getting more than 70 per cent of the total value added in the mining end of it.

The Chairman: I might just mention, for the benefit of those members of the committee who were not here on Tuesday when Mr. Culver of the Aluminum Company of Canada gave his testimony, he gave some figures which were quite startling to many of us. He mentioned that in a recently completed, highly efficient aluminum sheet rolling mill constructed in Canada by his company, there were approximately 150 permanent jobs established, but that the jobs required to produce the raw ingots to go into that mill would be approximately 2,000. So that proportion of about 15 per cent in the so-called processing jobs relative to that industry is even more startling than your figure of 74 per cent in mining and only 26 per cent in the smelting and refining stage. Those two figures, taken together, are certainly startling to many and are remarkably parallel.

Mr. Powis: If I may add one further point, Mr. Chairman, we seem to have in this country what I would characterize as the "hewers of wood and drawers of water" syndrome which tends to regard jobs that may be created in mining and primary industry as somehow being undignified and degrading, and jobs that are created in smelting and refining, and further processing, as somehow being better.

I was struck by this most recently in conversations with the Government of New Brunswick. We operate a very large lead-zinc mine in New Brunswick. The lead is all converted to metal in New Brunswick and the zinc is all exported as concentrate to Europe. The Government of New Brunswick is very anxious, naturally, that we build a zinc reduction plant to convert some or all of it to metal. We pointed out that if we built such a plant, it would only create 400 new jobs, and that recent expansion that we had undertaken in the mining operation created many more than 400 new jobs, which no one noticed. We also pointed out that to build a zinc reduction plant in New Brunswick would require an amount of power that is not available. Yet, they are determined to have it. There is a symbolism involved in the export of raw products that somehow or other produces a terrible hangup in this country, and I do not understand why.

Senator Connolly (Ottawa West): You have given the reason. It is a hangup.

The Chairman: I am purposely keeping my British Columbian comments to myself at this point, Senator Connolly.

Mr. K. C. Hendrick, President, Noranda Sales Corporation Ltd.: Mr. Chairman, with respect to Senator Conolly's comment about the export of jobs, I think we have to start from the circumstances as they exist today. Dealing with the three metals we have been talking about, what we find is that Japan and Europe, have the capacity to produce metal in excess of their consumption requirements. What they are looking for are concentrates, and if we in effect deny them those concentrates, choosing instead to produce those concentrates into metal, we would not have markets for it.

The Chairman: Before I ask Senator Grosart to commence the questioning, you might just make a general comment on Mr. Hendrick's remark relative to the availability in the world at large of these raw materials, or these metals Mr. Powis.

Mr. Powis: Unfortutely, Mr. Chairman, in today's circumstance the world is wash with all of these metals. There is far too much copper, far too much zinc, far too much lead for the markets that are available.

The Chairman: So, there is no general world shortage of these materials?

Mr. Powis: there is no world shortage, Mr. Chairman, and I do not think there is much prospect of a world shortage. At the moment, world inventories of all of these materials are at levels that a few years ago we would have thought were impossible to get to or to finance.

The Chairman: Senator Grosart will commence the questioning.

Senator Grosart: Thank you, Mr. Chairman. You referred to Noranda as a Canadian company, Mr. Powis, and the chairman referred to it as a multinational. While I know those terms are not mutually exclusive by any means, what is the general relationship in the mining industry between Canadian and foreign-owned companies, and what are its effects on this whole business of import and export?

Mr. Powis: It is difficult to generalize. If you wanted to take just raw statistics, the latest figures I have seen would indicate that the Canadian mining industry, as nearly as you can get at it, is about 55 per cent Canadian owned. I have had a running battle on this score with Statistics Canada, which had a tendency to say that if the International Nickel Company stock happened to be 51 per cent owned outside Canada, then it was completely foreign owned; if it happened to be 51 per cent owned in Canada they would say it was completely Canadian owned. By and large you have to look at various segments in the industry. In the areas in which we operate the metal producers, as shown in table 10, are Noranda, Inco, Cominco, Texasgulf, Hudson Bay Mining. Noranda is Canadian owned; Cominco is clearly Canadian owned; the last I saw, International Nickel is about 55 per cent Canadian owned, but nobody controls it; Texasgulf, of course, is controlled by the Canada Development Corporation; Hudson Bay Mining is controlled by Anglo-American Corporation of South Africa but is more than 50 per cent Canadian owned.

I don't myself believe that in the non-ferrous mining industry for instance, ownership has any impact at all on the structure of trade. Conventional wisdom is that American multinationals come in here to take our resources and process them elsewhere. It does not happen with non-ferrous metals. With iron ore it is a little different. Clearly a lot of our iron ore industry is owned by American steel companies. On the other hand, we are not going to process more of our iron ore in Canada unless our own steel industry grows. I do not think it is undesirable in any sense. Our iron ore consumption is obviously related to our steel capacity. We happen to have a lot more iron ore in Canada than we need for our own steel industry, and always will have, so we export a lot of it.

Senator Connolly (Ottawa West): You think we always will have?

Mr. Powis: Yes, I do, sir.

Senator Barrow: We could pelletize a lot more.

Mr. Powis: Yes, we could pelletize more of it. Here we are getting into an area that I do not know too much about. More of it could be pelletized; more of it is being pelletized. I think the Iron Ore Company of Canada has had a disaster —

Senator Rowe: Both. If I might interject, as far as I know all the iron ore being produced in Western Labrador, which is the biggest production in Canada, is being pelletized at this moment. The Iron Ore Company itself has a pelletizing plant at Labrador City, and Wabush has one down at or near Seven Islands.

Mr. Powis: I believe that is true. Again I have to say that we are into an area I know very little about. There are certain segments of the mining industry that are foreign owned, where quite clearly the objective of the foreign owners is to get a secure supply of raw material. Iron ore is one. I suppose asbestos is another, where there is a significant element of foreign ownership, and significant exports in raw form. On the other hand, I do not think it is realistic for Canada to expect that we are going to upgrade any more of those products than we are doing. As I said earlier, to upgrade more iron ore requires more steel capacity, and we are well served with steel capacity. With asbestos, those products generally have to be produced close to their markets. It is not realistic to expect that you can do something to them in Canada and export the resulting products somewhere else; the economics just will not work.

The Chairman: Can you expand on that slightly?

Mr. Powis: For example, if asbestos is a small proportion of the final composition of the product, then locating the manufacturing plant close to the asbestos mine makes no sense at all. It ought to be located close to the market. The manufacturing operation has to be near the market anyway, just to serve the market properly.

Senator Connolly (Ottawa West): Do you want to develop that for a minute?

The Chairman: I do not want to interrupt Senator Grosart at this moment. Perhaps we could come back to that, Senator Connolly.

Senator Connolly (Ottawa West): Yes, you are right, Mr. Chairman.

Senator Grosart: Mr. Powis, you said that your operations in the United States—I take that to be at both levels—are growing. Is this a recent phenomenon, and if so, what is the reason for it and to what extent is it related to government policies?

Mr. Powis: It is a relatively recent phenomenon, yes. Ten years ago we had no United States operations, so to the extent that we have them today they have been created within the past ten years. I guess in the end they are probably the result of Canadian government policy, but what they are really the result of is the fact that we look to go into new ventures where we feel we can make a reasonable rate of return on our investment. In the various areas we have gone into in the United States, it seemed we could get a better rate of return on those operations if located in the United States than we could get in Canada, for various reasons.

Senator Grosart: What are the various reasons? I ask that because I am interested in the components of the different climates, and particularly to what extent the component of tax climate, federal and provincial, is in the total mix.

Mr. Powis: I think I would have to say that the operations we presently have in the United States are related more to the fact that the United States market is just so much larger; there are tariff barriers going into it, so it seemed more sensible to locate the specific facilities in the United States. As to where we want to go in the future, that gets a little bit different. As I mentioned earlier, we have a very substantial program of mining exploration in the United States. Our ambitions are to try to get to a stage where we have very substantial mining operations in the United States. At present we have two very small ones there, one of which we started up last year. We would like to get much bigger in mining in the United States, specifically for the reasons indicated in tables 4 and 5, the tax rate.

It is our conviction that unless you discover something extraordinarily rich in Canada, it cannot be developed under today's tax circumstances. You cannot finance it; you do not have the prospect of making a reasonable rate of return. We are still looking for mines in Canada as well. We are doing it as an act of faith, I suppose, more than anything else; that sooner or later some common sense will prevail in this federal-provincial battle over taxing.

If we found something tomorrow, as a result of our exploration program, I think we might almost regard it as bad news. We have found it. We have to look at it and spend some money on it, but we know we cannot develop it.

Senator Grosart: Is there any relationship between this trend at the mining level and at the processing level?

Mr. Powis: I am not sure I understand the question.

Senator Grosart: Are there different reasons why you might want to expand your mining operations in the United States vis-à-vis your reasons why you might want to expand your processing in the United States?

Mr. Powis: Yes, there are. As far as processing operations in the United States, their market is about 11 times our size. It is easier to grow in the United States.

Quite frankly, part of our problem in manufacturing is that in the areas where we do operate in Canada, we are already very large.In electrical wire and cable, copper tubing, sheet and that sort of thing, we have about as large a share of the market as we can realistically expect to get and hold. We have no prospects for growth in Canada in those areas except, of course, in the theoretical context of being able to export a lot of them. However, Canada is simply not an appropriate base for world trade in those particular products because of our wage costs. If we wanted to make copper tube or electrical cables for export around the world, I do not suppose we would put it in either the United States or Canada. We would go to a place like Taiwan. They do tend to be somewhat labour intensive.

We cannot get into the U.S. market from Canada in those copper products because of the tariff structure. Therefore, if we really want to operate in the U.S. market, we have to locate our plants there. That is why we have done it in manufacturing.

Senator Grosart: The reasons are tax climate, wages, tariffs, proximity to market—any others?

Mr. Powis: That pretty well covers it.

Senator Carter: You mentioned the premium on the dollar, I think.

Mr. Powis: I hope that is a temporary phenomenon. If the premium on the dollar stays where it is for very much longer, an awful lot of people I am afraid are going to go out of business.

With about 80 per cent of U.S. productivity, we cannot pay 100 per cent of the U.S. wage rates and have our dollar at a premium too and survive on a long term basis. Again, when you make an investment, you have to look at the longer term. I would have to put into the equation the assumption that the Canadian dollar, by the time we got into production, is going to be very much lower than it is today. Otherwise we are all dead.

Senator Grosart: You said that sooner or later common sense would have to prevail in the matter of federal and provincial taxes overlapping, and so on. Do you think that is going to happen?

Mr. Powis: Yes, I do, but I do not think it is going to happen very soon. I do not think the credibility of the mining industry, or industry generally is very high. When we say what is happening in this country is going to lead to certain results, I do not think people will believe us until the results actually happen, by which time it is going to be very difficult to get started again. I suspect that sometime around 1981 or 1982 somebody in one of the departments up here is going to start scratching his head over the fact that the mining industry seems to be in a decline in Canada.

We used to have a pretty effective mining industry in this country, internationally competitive and contributing about 25 per cent to our total exports. Someone will then say, "What can we do to get it off the ground again?" Then someone is going to come up with the bright idea that maybe we should give a three-year tax free period for new mines, and someone else will say, "How about a depletion allowance?" and we will re-invent the wheel.

Senator Carter: When you made your presentation you read off all the strikes against you, the higher wage rates, the low productivity and the matter of the premium dollar. I am wondering how you compete at all. There must be some offsetting advantage somewhere.

Mr. Powis: I think, again, you have to look at it from sector to sector. In the mining industry, quite frankly, we are damn good at what we do. We are hanging on.

I think what is happening in the mining is that people know that even if they got lucky and found something, they could not develop it profitably with today's construction costs. So, no one is looking very much. Therefore, our exploration effort has wound down and that will show up, as the years go by, in a very significant drop in the level of new development.

The other thing that is happening to us is that we are hanging in but we are not making any money. This is also a problem. If you do not make any money, you have no source of revenue to invest anyway. That is the mining end of it.

When you get into forest products, we are hanging on there too. The impact is really on the level of profitability. We are not making enough money, even on the basis of historical costs, and this is another area we could get into in some detail.

Senator Carter: You are selling in the United States and competing with similar competitors in the United States in spite of all these handicaps.

Mr. Powis: Yes, in spite of all these handicaps, but the problem is we are not making enough money on it.

Senator Carter: I was wondering how you could make any.

Senator Croll: Did we not give you an exemption some years ago and withdraw, in the mining industry?

Mr. Powis: There was a three-year tax-free period for new mines.

Senator Croll: That was some years ago.

Mr. Powis: That was withdrawn in the tax reform exercise in the early 1970s. There was also percentage depletion. In effect, you paid taxes on two-thirds of your taxable income, which was the way that worked.

Senator Croll: I remember an annual bill coming to the House of Commons dealing with the mining industry, which was an exemption of some kind or other. It is not clear in my mind.

Mr. Powis: I am not sure what that would be.

Senator Connolly (Ottawa West): Unless it was the Gold Mining Assistance Act.

Mr. Powis: It may have been that.

Senator Croll: No, it was something else.

Mr. Powis: From time to time various provinces have rules regarding export of concentrates. If it was a provincial government, they have to keep on waiving their rules, otherwise you pay triple mining duties.

Senator Connolly (Ottawa West): Your depletion now is an earned depletion?

Mr. Powis: Yes, and what it really means is that you can write off 133 per cent of what you spend on certain things.

Senator Cameron: What is the wage differential between the Canadian wages, in the industry, and the American wages? Would it be roughly 15 per cent?

Mr. Powis: It depends. In mining it is somewhere between 5 and 10 per cent higher in Canada than the United States and in forest products it is somewhere between 10 and 20 per cent higher in Canada than in the United States.

Senator Grosart: Have you thought of any solution for this federal-provincial tax problem, taking in taxes, royalties and the feedback mechanism where royalties are not allowed as an expense? Have you come up with any formula to solve this; and, if so, have you presented it to the government or anybody? I am now really speaking of the mining industry as a whole.

Mr. Powis: We have come up with a number of ideas. The problem is, first of all, the British North America Act did give the resources to the provinces.

They gave the resources to the provinces and for the first 103 or 104 years there was not too much of an argument about it. The provinces levied a certain rate of taxes and the federal government took the rest.

The problem really started, I believe, with the oil situation where everybody became envious of Alberta. The price of oil went up, and presumably it is not going to come down again and the Province of Alberta started to get very rich out of its resources. The other provinces became somewhat envious of that. They looked at what they had themselves, in the way of resources, and it was mostly mines. This happened to be in 1973 and 1974 when the price of mining products had gone up in a very marked way as well.

I believe the inherent assumption behind it all was best summarized by the Treasurer of Ontario in the 1974 budget when they put on that egregious tax system that Ontario has now, where he said that the prices of mine products had gone up in response to an insatiable worldwide demand, and they were never coming down again, and the people of Ontario should have a greater share of the windfall profits being earned by the industry. When he made that particular statement the price of copper in world markets was $1.50 a pound and it has since gone down to 51 cents. So, as a metal price forecaster, he was no better than the rest of us.

As to the solution, I do not think there will be a solution until there is some sort of agreement between the federal government and the provinces as to what is an appropriate share for each of them of the resource revenues. What we have seen here is a situation in which the provinces raised their taxes and royalties to such an extent that they were really backing the federal government right out of any taxes revenues, and, of course, in the process they were backing industry out of any profits, too.

Then the federal government proceeded to disallow them so that they would still have some presence in terms of resource taxation in this country. I can understand why they did it, but it certainly represented the nail in the coffin.

As for a solution, it seems to me that a nice simple solution would be for the various governments to decide that 50 per cent is a high enough tax rate and maybe they should split that 50-50 if you want a nice simple answer.

Senator Grosart: I think it is a very good answer. You used the phrase "vigorous efforts," and I assume you were referring to the government using vigorous efforts to diversify our trade between the United States and other trading blocs. Do you see any evidence of vigorous efforts?

Mr. Powis: I think the Prime Minister and the Minister of Industry, Trade and Commerce —

Senator Grosart: There has been a lot of talk, but I mean efforts.

Mr. Powis: It seems to me there has been a great deal of effort. The Prime Minister makes trips. The Minister of Industry, Trade and Commerce leads trade missions, trying to develop more trade with Russia, trying to get a contractual link with the EEC. I know the people in Brussels are working very hard on that. We run recurring trade missions to places like China, Japan, the Far East, and all of these efforts, in my view, are worthwhile. But to think that we are going to develop a substantial trade with either Russia or China or to think that we are really going to

change the structure of our trade with the EEC or Japan is, I think, whistling in the dark.

It does seem to me that, in our own interests, if we put even half as much effort back into solidifying our relations with the United States as we put into trying to pursue this third option, we might be a whole lot better off in this country.

Senator Grosart: Personally I agree with you, but the problem that has arisen in this context and in others is that when we ask, even Ministers, "Is it really your intention to create a situation whereby you will change the structure of the proportion of our exports to the United States?" they say, "Oh, no." Because I have asked two Ministers, "Will you tell me what year you want it to be 65 per cent? What year do you want it? What is your pattern?" And they give up. They say, "Oh, no; diversification." So it appears to be only diversification of the other 30 per cent between the other blocs.

Mr. Powis: I have had a lot of trouble coming to grips with it myself, sir. It does seem to me that if I have a customer who takes 70 per cent of my output and a whole flock of other customers who take 30 per cent, it behooves me to put a lot of time in cultivating that fellow who is taking 70 per cent.

Senator Grosart: That seems to make sense to me, but I have never had anybody explain the third option to me yet.

The Chairman: That is assuming that it is capable of explanation, Senator Grosart.

Senator Grosart: That is your problem, not mine. I am still a Tory.

Mr. Powis, you made an interesting remark which suggested that when there were confrontations at the top levels between Canada and the United States this reflected in an increase in retaliatory action at the lower level, the customs level. Is this actually happening?

Senator Rowe: You mean harrassment.

Senator Grosart: Yes, that is the word that was used.

Mr. Powis: Yes, it does actually happen, sir.

Mr. Hendrick: It does in a minor way, senator. I do not think it should be over-emphasized. Normally, exporting to the United States is a relatively simple process, but nonetheless the documentation can be complicated. If the border officers desire, they can delay and require more documentation, more analysis of materials and communications. It does not ultimately affect the deliveries in absolute terms; it just slows them up in certain cases.

Senator Connolly (Ottawa West): How does that actually happen when you have a carload or perhaps even a trainload of material going in?

Mr. Hendrick: Normally, Senator Connolly, if the documentation is not completed at the time the shipment arrives, they can use, for instance, an estimated valuation for duty purposes and allow the shipment to clear the border. If they want to be difficult, they can insist that the absolute valuation be known before they calculate the duty applicable. It is that type of thing. As I say, it is not elaborate.

Mr. Powis: It is very much a work-to-rule type of thing, senator. For example, technically speaking, when you travel to the United States you ought to fill in all kinds of forms. You do, if you come in from Europe. They never make you do it at the U.S. border points with Canada, but technically speaking they should. They just don't. It is the same thing with various products. Usually you just ship them in and a lot of the formalities that ought to be gone through are just sort of waived. But when things start to get a little sticky they are in effect working to rule, making you fill in all of the forms exactly right and do everything exactly right. It slows you down. It is harrassment. It is not serious, but it does exist.

Senator Connolly (Ottawa West): Your officials are not on the trains that carry the material through?

Mr. Hendrick: No.

Senator Connolly (Ottawa West): You ship it and turn it over to the shipper to deliver. I take it that the carloads, or whatever the units are, go through but that you have paper work backing up which creates the harrassment.

Mr. Hendrick: That is correct. We normally employ a customs broker who, on our behalf, assists us to clear through the border point. In many cases, Senator Connolly, it is just a question of finding another border point where the officer is not quite so assiduous in working to rule.

Mr. Powis referred in his remarks to the special relationship we have with the United States; and following 1971, I think it was, when the U.S. became concerned with their balance of payments and applied a special import surcharge, there were many other aspects to their concern about limiting or influencing imports, and this led to a much greater incidence of dumping actions and a much more assiduous processing of dumping complaints. We did actually get involved in a dumping charge on lead. This applied both to Canadian and Australian lead. To our gratification it was removed this year, but it did apply for two years. I am not saying that under other circumstances it might not have applied or that under the previous special relationship it might not have applied, but nonetheless Canada was not given any special consideration when the U.S. became seriously concerned about its balance of payments imbalance.

The Chairman: On that same question of harrassment which you raised, Senator Grosart, may I ask this supplementary? The activity at the boundary of this form of harrassment—that is, working to rule with documentation and so on—is that purely a random thing or can you detect any hidden hand, namely from Washington or a central authority, escalating this at a time of price changes in products or a downturn in the economy? In other words, is there any pattern to it, or is it just a random thing because of their system?

Mr. Powis: It seems to happen, as I understand it, not so much at times when there are economic problems, as at times when they are annoyed with us for something we have done.

Mr. Hendrick: Mr. Chairman, it may just be a personal reaction on the part of the border officials. I have never sensed, as you express it, a hidden hand—in other words, a policy directive coming from the Washington Bureau of Customs saying, "Tighten up on all restrictions, and delay all shipments." I have never sensed any situation such as that.

Senator Grosart: How do Canadian tariff barriers and non-tariff barriers compare with those of the United States? That is by way of a preface to asking you to what extent you think the American tariff barriers and non-tariff barriers are retaliatory.

Mr. Powis: To answer the second question first, I do not think it is so much retaliatory as designed to protect certain interests that the United States wants to protect. In the case of our own tariffs in mining products, I could not even tell you what our tariff structure is. It is not something we have ever regarded as being particularly relevant. I think there are tariffs on copper coming into Canada.

Mr. Hendrick: I do not believe there are any tariffs on copper, zinc or lead metal, for example, being imported into Canada.

Mr. Powis: It is just something we have never paid any attention to. Rational people would not ship copper to Canada. That would be carrying coals to Newcastle. We can compete, and it is just not the sort of market that a producer in some other part of the word would regard as being one they could operate in very effectively.

Senator Grosart: What about fabricated products?

Mr. Powis: With regard to fabricated products, this is something I would want to check into. In our own area of manufacture, our own tariff barriers are probably higher than those of the United States, and I think probably, as a generality, they have to be, just because of the nature of our market.

Mr. Hendrick: They do have a very serious escalation effect, though, Senator Grosart, because if you have even a modest tariff on metals, and a proportionately higher tariff on the manufactured product, you are getting a multiple of that difference applying on the value-added portion, which makes export of manufactured goods increasingly difficult.

Senator Grosart: That is my question. We complain greatly about other countries escalating their tariffs in relation to the on-going degree of processing. Are we doing the same thing? If so, what is the basis of our complaint?

Mr. Powis: I think it is clear that we do the same thing. Just to respond again to the question of non-tariff barriers, as a generality I do not think the government of Canada imposes non-tariff barriers in any significant way at all. There may be the odd informal quota negotiated on Hong Kong textiles, or something, but as a generality the government of Canada does not do it.

The non-tariff barriers we do have in Canada are usually provincial. A specific province will say, "We will only buy a certain product if it is produced in this province." This becomes significant in terms of wire and cable, for example, with regard to which, if you want to sell these products to such a provincial utility as I have referred to, you had better make it in that province. It results in a bit of a fragmentation of our industry in this country, but the motivations are certainly understandable.

I would have to say, however, that by and large Canada, in terms of non-tariff barriers, is probably the most open country in the world. I am referring to non-tariff barriers, not tariff barriers.

Senator Grosart: The GATT tariff does not show that, although it may be true of your industry. There is a very long list of complaints about non-tariff barriers in GATT right now against Canada; in fact, there are more American complaints against Canada than Canadian complaints against the United States. That is the fact at the moment. I do not know if it represents the actual situation.

Mr. Hendrick: I think that in fabricated products government procurement is a particular problem that the wire and cable industry faces in seeking to sell to groups like the Central Electricity Generating Board of the United Kingdom, or the equivalent of our public utilities in Japan. You just do not get an opportunity even to quote, let alone a serious opportunity to supply; whereas some of our public utilities see their responsibility differently: they see it not as a responsibility to support domestic industry, but to purchase as economically as they possibly can in the public area. As a result we are faced very often with less than full cost competition within Canada on major public utility installations, and we are unable to penetrate other markets.

Senator Grosart: I take it you do not buy your wines in Ontario!

I have one last question in this round. It is very often said that the rationale behind the "hewer and drawer" syndrome is fear of depletion of our resources, particularly non-renewable resources. Is this a fact or a fantasy?

Mr. Powis: Just speaking now of mining, as opposed to the petroleum industry, where there may be a different kind of problem, I do not think we have even scratched the surface of Canada in this regard. Obviously the supply of copper in the ground is finite in the end, but we have not even begun to scratch the surface of our potential in this country for new discoveries of copper, zinc, lead, nickel and what have you

There is another difference that people should recognize between metals and petroleum, and that is that we do not consume copper, we just transform it into something else. It is still available. Most of the copper that has been mined throughout mankind's history is still there as copper, somewhere, either as a cable, or a lamp, or something of that kind. We have ignored secondary materials in all of these tables that we have supplied you with, but some 40 per cent of the world's copper supply in any given year consists of secondary material, or recycled copper. This is also true of steel, and other metals.

This is why, when people start talking about rigging the market for copper, word wide, it boggles the mind, because you just cannot rig that recycled material, which is always there.

We are not going to run out of copper, and we are not going to run out of lead or zinc: it is still there in some other form. It has been transformed, perhaps, into a wire, or something else, but it is still there.

There are really two factors here. One is that we have a lot of potential left for new discovery in this country, if people are given a chance to make a reasonable dollar if they are lucky, and the second is that we do not burn copper as we do gasoline.

The Chairman: Just on that same point, it is my understanding—and you might correct me if I am wrong on this—that in the principal copper mining operations in my province, British Columbia, they are extracting from the ground almost the lowest grade copper in the world, On a scale of 10, if you put it at one you would go up to two in the United States and four in Mexico and six in Africa. Is

this correct, or could you just comment on that layman's statement?

Mr. Powis: It is certainly true that the British Columbia copper mines, in aggregate, are probably the lowest grade in the world. As a matter of fact, we are quite proud of the fact that we believe that Brenda mine, that we referred to earlier, is the lowest grade mine in the world, and it is a very efficient operation.

Senator Rowe: What is the percentage?

Mr. Powis: It runs at .18 per cent copper. That is only half the story, because there is an equivalent value, depending on prices, of molybdenum, and it is copper plus molybdenum; but as a copper equivalent it is about .35 per cent copper.

Senator Carter: What form is it in—pyrites, sulphite?

Mr. Powis: It is a mineral called chalcopyrite, which is roughly a third copper, a third iron and a third sulphur.

The Chairman: One other thing on this question of the exhaustion of resources. Could you comment on another layman's "fact" that I have in mind that I read somewhere? This is to the effect that the sea nodules, which, admittedly, still require further technology before we can mine them competitively, are not only there in quantities that would provide us with these base metals for thousands of years, but are being formed by nature at a faster rate than man is presently using them.

Mr. Powis: Yes. It is true to a point, sir. I think the sea nodule thing can be overdone, in the sense that the major value, or major component, in those sea nodules is nickel. The extent to which you can actually economically mine the ocean floor is going to depend on how much nickel the world's markets can absorb. There are smaller amounts—not minor, but smaller amounts—of copper and zinc. Manganese is the primary constituent. These nodules are being formed, certainly, and nickel is being formed, I believe, at a rate faster than it is presently being consumed in the world, so that we can have a fair degree of comfort about the fact that we can never run out of nickel, although it may cost a little bit more to get off the ocean floor. But, having said that, the extent to which you can look to the ocean floor for copper or zinc or some of these other constituents will depend upon how much nickel the world's markets can absorb.

Senator Grosart: What is the rationale of the American position at the Law of the Sea Conference that at some time in the future, if this nodular extraction develops the volume of production of various metals should be frozen? Canada took an opposite position on that. Have you any information on that?

Mr. Powis: I think the U.S. was trying to respond to the concern of some world producers—and perhaps Canada was amongst them—that the world markets might become flooded with materials mined from the ocean floor to the detriment of on-shore mining which, incidentally, is not a concern that I would share. So I think what they proposed is that there should be a control on the extent of undersea mining related to the increase in world demand. Then the extent to which undersea mining would be permitted, and this refers most particularly to nickel, under international control would be related to the growth in world requirements for nickel so that the onshore mining would not be seriously injured. Noranda is part of a consortium with Kennecott Copper, Mitsubishi, Rio Tinto Zinc investigating ocean mining. We spend a lot of money on it. We believe it is technically feasible to do it, but I would not be terribly concerned that it will suddenly run all the Sudbury mines out of business. It won't. It is a very expensive proposition.

Senator Carter: But surely it would depend on the economics of the situation. It would not be a question of what was mined on land or what was mined under the ocean. As you say, it will take a great deal of expensive equipment, and they could not operate that equipment without a certain volume to make the operation viable regardless of what is being mined on land.

Mr. Powis: That is true, but a typical undersea mining operation would not add any more, say, nickel production than a new mine on land. These things never proceed exactly in phase with the market. But it would be no more serious in terms of world nickel markets to have an undersea mining operation developed by the consortium we are a part of than it would be if somebody developed a new mine in Australia or in Manitoba.

Senator Carter: No, but I was thinking of the proposal to treat the whole thing on a 50-50 basis. Surely it would be governed by economics rather than by any arbitrary proposal dreamed up by some committee.

Mr. Powis: It will certainly be governed by economics, in my view, and I also feel that economics will look after the problem. You do not have to have this business of saying, "Well, we will limit it to the growth of the market, "which would mean that other people would then turn around and say, "You are freezing land mining." I don't think that is true at all, because, as I said earlier, it is technically feasible to do this but if you gave me the choice between going into an undersea mining operation and finding a very high-grade nickel mine in northern Ontario, under a reasonable tax system, I would certainly go for the land mine. It would be much more economic than undersea mining.

Senator Grosart: It would be nice to believe that economics would control it, but what we have been worrying about is national government interference, and now the problem arises of international government interference with the market and with supply and demand. That is the concern now. As I say, it would be nice to believe that economics would govern the future of mining.

Mr. Powis: I suppose what I should have said, senator, is that if economics are allowed to work, then they will work just fine.

Mr. Hendrick: Personnaly I would share Senator Grosart's concern about this new international authority, implying a loss of national sovereignty. It is an entirely new concept in the metal industry where approval would have to be obtained before one could develop a resource that one had discovered from a national or corporate point of view.

Senator Rowe: I have a couple of questions, Mr. Chairman, but first of all I should like to make a comment or two. I was interested in the witness' reference to what he called the syndrome with respect to the processing and manufacturing side of production. It seems to me that the impression he has given—and I know that many people have this impression—that those who are seeking to increase our share of the processing and manufacturing are

motivated by what you might call occupational snobbery, may be so in some isolated cases, but if you are the government in a province where 22 per cent of your working force is out of work through no fault of their own, then you are going to seek desperately to get anything that will increase the number of jobs. I would suggest that that is probably more than anything else what is motivating the people of New Brunswick, as it has motivated the government and the people of Newfoundland. Let us take a mining example. At one period—not right now, as I am sure everybody knows—our production of copper and lead and zinc was pretty high. We had Rambler, which is still going; we had Gull bridge and Tilt Cove; we had Atlantic Coast Copper and the Brinco Mine at Whalesback; and, of course, the big American Smelting and Refining Company at Buchans. I cannot tell you what their total production was, but it must have been up towards $100 million, and that was all being exported as a concentrate. We felt at the time that if there was any way a smelter could be established in Newfoundland, then we should try to get it. But I suppose—and here I speak from ignorance on this point—there is some point below which a smelter would be uneconomic anyway. Perhaps you could comment on that later.

The other comment I would make, again of a somewhat critical nature, but I am sure you will appreciate that in a matter like this we need to be frank, is that I had some experience in the early 1950s with a great many mining companies—Canadian, American and others as well. They were, of course, constantly coming to us, pleading a crisis of one kind or another, and as Senator Carter implied, somehow or another most of them were able to carry on. I wonder if that accounts for the fact that, as you suggested, the credibility of the mining interests today is not all that high in Canada. I think that is how you phrased it. I wonder if that is not a reflection of the fact that the mining industry historically has cried wolf too often. As I say, I agree entirely, although I cannot speak as an expert, with the point of view that you expressed. I believe that the mining industry in Canada is in a serious situation.

I have one other brief comment. I received in the mail this morning a special report issued by the Republican representatives in the United States on the Canada-United States Inter-Parliamentary Group, of which 15 members are Republican representatives.

The Chairman: Is that the "Wednesday Group"?

Senator Rowe: Yes.

Senator Grosart: That has been around for some time.

Senator Rowe: I received it only this morning and have not read it all. However, one point made by Senator Grosart and the witness is confirmed. For instance, one of the recommendations is that the special representative for trade should be asked to investigate whether Canada's policies in the communications field are discriminatory to United States trade with Canada. Following that, a more significant recommendation is that President Ford should be asked to undertake a similar investigation with a view toward possible swift action under the terms of the Trade Act of 1974, if warranted. I simply refer to this now to confirm, really, this fact that the situation between Canada and the United States is not very happy right now.

The Chairman: That is related to border broadcasting.

Senator Rowe: That one is, yes, but there are similar points made.

The Chairman: And that emphasizes a point made by the witness, that an irritant in one area can swing back on us in a different area, and this is something to which we should pay more attention possibly.

Senator Rowe: Yes, I have a minor question. I was interested in this matter of harassment, but you have already dealt with that in response to Senator Grosart. You used the term, Mr. Powis, or I thought you did, when speaking of the provincial taxes which have been levied against the mining companies in the past two years, "punitive taxes". Did you mean us to take that word literally?

Mr. Powis: Do you mean in the sense that we are being punished?

Senator Rowe: Yes.

Mr. Powis: No, I did not mean it in that sense. "Confiscatory" might be a better word.

Senator Grosart: There can be punishment without motive. It can just be punishing.

Mr. Powis: Yes, but I do not know that we are being punished for anything other than past appearance of success.

To return to your concern with respect to the 22 per cent unemployment which, of course, is perfectly understandable, I was really referring to the fact that we could increase in New Brunswick jobs in the mine by 500 workers and no one would regard it as being a very big thing and no one would pay it any attention. However, if we spent $180 million, which is about what it would cost, to create 400 jobs in a zinc reduction plant, they would all throw their hats in the air. It is a different kind of job and has a different kind of image associated with it. I understand the motivation to create jobs at any price, but I submit to you that a solid job in a profitable mine is a whole lot better than a job in a Bricklin plant, although making cars may have more emotional appeal to people than mining lead and zinc.

As for the exports of concentrates from Newfoundland, I have to admit that we were part of your problem there. Most of those concentrates, excluding the Buchans ones, were exported to Quebec, in fact, and smelted and refined in our facilities. The problem there as far as smelting in Newfoundland is concerned is partly a question of quantity and partly a question of long-term supply. The mines to which you made reference tended to be fairly good grade mines, but they did not contain more than five, six or seven years' supply of ore.

Senator Rowe: Yes; several are closed, actually.

Mr. Powis: Yes; that, of course, raises another point, that they are closed and nothing much new is opening. This is a function of the decline in the level of exploration in this country to which I made reference earlier. However, it seems to me that in the end the quality of a job in a viable internationally competitive operation is much higher than the quality of a job in some rather tenuous hot house flower type of venture that may not be able to compete after it is built. I suppose some examples of that exist in Newfoundland, such as the Come-By-Chance refinery in connection with which the economics might not have been as good as they should have been and it is now a millstone around the necks of the employees, the community, the governments, everyone. Our concern in this country ought to be that, when we foster the creation of jobs, we ensure

that those jobs are in industries which will in fact survive. It is true that in mining we have an industry which has demonstrated its ability to compete throughout the world on even terms with anyone, and jobs in that industry, in my view, are high-quality jobs. We must consider the quality of the job as well as just creating it.

The Chairman: They are also highly paid jobs.

Mr. Powis: Yes; the mining industry, I believe, is the second on the wage scale.

Senator Cameron: The growth of the plastic industries in manufacturing pipe and other products must have had some effect on copper production.

Mr. Powis: It has, indeed, sir. It has not been so much an effect on the production, although I suppose that in the end the whole process does. It started with substitutions of other materials for copper in the 1930s, when aluminum took over the usage in high voltage transmission lines and there have been plastic pipe and many other items substituted for uses to which copper was previously put. However, it is just the market working; they happen to be cheaper and as effective in certain uses. I can say two things about that: One is that in my opinion the process has gone as far as it is likely to go in terms of substitution for copper; secondly, if this had not taken place, copper would now be a semi-precious metal.

Senator Bell: I would like to raise a point following on Senator Grosart's opening comments with respect to our trade with the EEC and Japan. I wonder if Mr. Powis would care to comment with respect to Canada's role in the international metal commodity agreements. I believe that the United States does not participate, while we do. Just what is the role that we play in this? For instance, perhaps you could give us a little background and an example with respect to tin and how important it is?

Mr. Powis: It opens up a very large subject. There is considerable agitation around the world among the less developed countries for commodity agreements which will stabilize and improve their terms of trade. This is being spearheaded by UNCTAD. I believe Secretary Kissinger in the United Nations on September 1 gave United States blessing to the concept of commodity agreements on a case-by-case basis, specifically singling out copper and grains, which is really quite funny as the United States is virtually self-sufficient in copper and exports grains. They do not mind it in those cases, but they do not like it so much when it is in oil.

The Canadian position, as we understand it, is that we are amenable to participation in international commodity agreements provided both the consumers and the producers are represented. We have a number of hangups about the whole subject. We do not think, in the first place, that the OPEC example is trasferable to any other commodities. We do not think that the OPEC example is something to which we necessarily wish to subscribe, in any case.

Senator Bell: CIPEC?

Mr. Powis: Yes, that is a copper group, which originally comprised Zambia, Zaire, Chile and Peru which, I guess, would dearly love to emulate OPEC. However, of course, the recent activities with respect to cooper have not been very successful. Taking copper as an example, our real hangup in connection with commodity agreements is, first of all, what are they intended to achieve? If it were really an endeavour to simply stabilize the price of copper and stop the fluctuations, in the end they would not really help the countries which produce copper. All you are really doing is evening out their revenue flow. It is our view, in the absence of rigid international control of production levels and sales, which would involve a loss of sovereignty which few countries would be prepared to accept, that it would require somewhere between $3 billion and $4 billion to stabilize the world's copper markets—just copper. We question whether this is really very good use of capital in the context of a capital scarcity in the world.

Furthermore, as a mechanism for helping the less developed countries, we question the efficacy of it. It would clearly help a few underdeveloped countries—not quite as much as it would help Canada—if you are talking about stabilizing the price at a level higher than would otherwise prevail. But I think, again, the OPEC example demonstrates that, sure, certain countries which happen to have the oil derive enormous benefit, but the people who were lurt the worst were the rest of the underdeveloped countries.

So we have a number of hangups about this whole question of commodity agreements—despite which, it looks as if something may be done, or attempted.

If we look at the tin agreement, which operated on a buffer stock basis, with production controls and finance in what we would regard as being a reasonable amount, fluctuations in the price of tin, in fact, have been just as large as in copper. It begs the question that maybe it would have been worse in the absence of the buffer stock, but the fluctuations were very wide in the price of tin in spite of the operation. Do you have anything to add to that, Mr. Hendrick?

Mr. Hendrick: I am trying to remember the price of tin. The price of tin during the period of commodity shortage in 1973-74 went from something in the range of $1.40 to over $4, which is really not stabilization. I think too there is an implication behind this effort on the part of the developing countries to obtain a better price. If this is the objective, then where it will end up, if it seeks and is successful in establishing a higher price than would otherwise be established by the market, is that it will encourage surplus production, increased deliveries to the buffer stockpile, and ultimately collapse of the system through lack of finance.

Senator Bell: So it would be self-defeating.

Mr. Hendrick: Yes. If, in the long run, the price you stabilize at is really the average of the market price, then as Mr. Powis has said, it is a question of levelling out the revenue flow. The U.S. has said they are prepared to consider commodities on a case-by-case basis, emphasizing that they wish to retain the free market mechanism. They are recommending that the existing institutions be used—for instance, the IMF compensatory financing arrangements—which, in effect, could assist the developing countries during low prices, and presumably the loans at that time would be paid back later, leaving the free market to continue to operate and the price to average around the true competitive level.

Senator Grosart: Mr. Chairman, a remark that is apropos was made by someone the other day who said that the United States was supporting the principle of international commodity agreements because they knew they

would not work. It was based on the fact that none has ever worked successfully except OPEC, and OPEC only because it had a high level of the necessary requirements—that is, supply exceeding demand, complete control of supply, and so on. And even in OPEC we are running into the essential problem which always comes up, that of substitution.

The Chairman: Yes; and a product for which there is no substitution in our society and is used so extensively.

Senator Carter: There is the factor that Mr. Powis mentioned of recycling. You can recycle 40 per cent . . .

The Chairman: That is substitution. Senator Bell, I often use as an example, for people who get concerned about international commodity agreements, the one substance where these types of agreements have been attempted in the last 75 years. That is sugar. Sugar is a peculiarly wild type of industry, which I have never been able to fully understand. But I do know that the first commodity agreements on sugar were attempted prior to the First World War. They are so impossible to police. As soon as either supply or demand gets out of whack—I believe they have had to renegotiate 15 or 20 of them in the intervening 60 or 70 years. That is how successful they are.

Senator Grosart: It is the same with rubber. As soon as anyone gets a better price, he breaks out.

The Chairman: Yes; he immediately breaks the agreement.

Senator Grosart: That has happened over and over again in coffee, tea, rubber. Except with shipping. Shipping and OPEC are the only two apparent successes in 50 years of attempts.

Mr. Powis: The jury, of course, even on OPEC, is still out. Whether in the long term it is going to work or hold together, no one knows. What we do know is that the OPEC example is not transferrable to most of the commodities that we deal with, because of the ability to substitute, because of the existence of secondary supplies, and so forth, and the concerns which people have that the OPEC example will be emulated is worrying about something that cannot happen.

Senator Grosart: Like the Automotive Agreement!

Mr. Hendrick: Mr. Chairman, even Senator Grosart's other example of shipping, I think, is subject to one of the faults of commodity agreements which is the new producer; because at the moment Russions are very Strong in the market and are causing problems for the chipping conferences.

Senator Carter: I should like to clear up one or two points. I gathered from what you said earlier, if I understood you correctly, that tariff and non-tariff barriers, while they may make life a bit difficult occasionally, are not really a significant impediment to trade with the United States. Is that a fair statement?

Mr. Powis: In some products, that is true, sir, and in orthers it is not. For example, we are, I guess, the second largest producer of molybdenum in the world in the Noranda group. We do not ship one pound to the United States. The tariff in the United States market is so high that it effectively shuts out all of our molybdenum. Because the United States in itself is a net exporter of molybdenum, we find other markets.

In lead and zinc, if you go back to the early 1960s, we had rigid quotas on the quantities we were allowed to ship into the U.S. market. We hope that will never come back, but from time to time it is threatened.

In mine products, by and large, tariffs are a nuisance, but not an overwhelming obstacle where the United States needs our product. Where they do not need it, tariffs can be a complete barrier.

Senator Carter: What share of the U.S. market does the Canadian mining industry have?

Mr. Powis: It varies from product to product. It is relatively small in copper because the United States is essentially self-sufficient. Perhaps one of these tables will shed light on the exact figures. For example, in 1974 Canada exported a total of 136,000 tons of copper to the United States. The United States, in 1974, consumed something in the order of two million tons. Thus, we have a very small proportion of the U.S. market. On the other hand, if you go to something like zinc, we supplied close to 500,000 tons of zinc to the United States in 1974. U.S. consumption amounted to 1,400,000 tons, so we were supplying about one-third of the U.S. market, or very close to it. As far as nickel is concerned, at one time we supplied nearly all of the U.S. market. That is no longer true. The Dominican Republic now has a portion of it. We still supply a very high proportion of the U.S. nickel market.

All of this is very much dependent on the extent to which the U.S. itself is a producer of these various materials. If you are speaking of molybdenum, it cannot even be shipped into the U.S., as the U.S. is a net exporter of molybdenum. In terms of nickel, I am sure we supply well over half of the U.S. market; in zinc, we supply approximately one-third; in copper, we probably supply 6 per cent to 7 per cent of the U.S. market. It varies from metal to metal.

Senator Carter: Dealing with those metals for which the United States is significantly dependent on Canada, do you foresee any possibility tht it may try to make itself less dependent on Canada through diversification of trade, as we are attempting to do with the EEC?

Mr. Powis: I think the United States, in those areas where it is significantly dependent on Canada as a source of supply, would like to diversify its sources. That may be one of the reasons it is so interested in undersea mining. I think it is natural for any country not to want to be too dependent on one particular supplier, just as Canada does not seem to want to be too dependent on one market. That seems to be government policy. I do not think we can avoid being dependent on the U.S. market.

I think the United States, given the choice, would prefer to be self-sufficient in all areas. It is rather interesting to note that the U.S. degree of self-sufficiency in mining products has generally been ceclining, as one might expect, but in some areas it is increasing. In lead, for example, the United States produced only 40 per cent of its requirements in 1960, whereas it is now producing somewhere between 70 per cent and 80 per cent of its requirements.

Senator Rowe: Is that as a result of an accidental happening, or was it a deliberate program toward self-sufficiency in lead?

Mr. Powis: All companies are exploring in the United States, including Noranda and the American producers themselves. There is some Canadian participation in the

U.S. lead market. Cominco Ltd. discovered extensive deposits in the United States which is has develop.

Any country would like to be self-sufficient. The United States, I am sure, would be, too. I do not think that in most cases the United States is deliberately going out to lessen its dependence on Canadian imports. One example where they are deliberately doing so, however, is in potash, where it is somewhat concerned, as I am, by the policy of the Government of Saskatchewan to take over all or part of the potash industry. The United States, I believe, is trying to develop a source of supply in Russia.

Senator Rowe: That is evident in the document I referred to earlier.

Mr. Powis: Yes.

Senator Carter: You said something earlier which I did not quite grasp. The impression I got was that, in your opinion, free trade would be beneficial to the Canadian mining industry.

Mr. Powis: Yes, to the mining industry. I question whether it would be beneficial to Canada as a whole.

Senator Carter: You are drawing a distinction between industry generally and the mining industry?

Mr. Powis: Yes. For Noranda Mines' activities in mining, forest products, we think free trade would be a great thing. When you take it beyond that stage to the manufacturing area, it would, at the very least, require a complete restructuring of much of Canadian industry.

Senator Grosart: Would that be bad?

Mr. Powis: It might not be, senator, although I do not know whether we are really prepared to pay the price of what would happen in that restructuring period.

The other point, given a free trade situation, is that without safeguards, such as we had in the Auto Pact, to ensure that there would remain in Canada a high level of manufacturing activity, we might well find it all migrating to the United States. As I look at our own activities, in terms of producing electrical wire and cable, or such products as copper tubing, and so forth, our present plant locations are logical in the context of supplying the Canadian market. However, in a free trade context, that would probably not be the case. Perhaps our Toronto plant might better be located in St. Louis.

My concern is that, given a free trade context, without some safeguards to ensure a certain level of manufacturing would remain in Canada, we might find it all migrating south of the border.

Senator Grosart: It is sometimes said that the best thing a nation can do is to lose a war so it has to involve itself in restructuring its industry. That might well apply to a trade war as well as the other kind.

The Chairman: Still on this subject, Mr. Powis, I do not believe anyone has ever seriously suggested a free trade agreement with the United States that would not involve a minimum 10-year transitional period, which is the general time period used in Europe in respect of free trade agreements between the EEC and those countries which are not members of the Community, as well as other safeguards. I think the Canada-U.S. committee at one point suggested that in a free trade agreement with the United States, Canada should have a 15-year transitional period against the American 10-year transitional period, giving us a five-year head start.

There is no question that there would be a terrific restructuring of our industry in respect of a free trade agreement with the United States. What would you say to the Economic Council of Canada, and other leading economists who, in recent years, have said that we have no choice but to tackle that restructuring if we are going to not only further develop our manufacturing industry but, indeed, have it survive, because of the need for the economies of scale that the larger market would provide?

Mr. Powis: The reasoning of the Economic Council of Canada in this respect, in theoretical terms, I suspect, is impeccable. What I have a great deal of difficulty coming to grips with is the fact that, as a practical matter, after a 10- or 15-year transitional period, what rational reason will there be to locate a plant, say, in Toronto as opposed to St. Louis, Missouri? What guarantees do we have that after the restructuring has taken place and the trade is completely free that any one will be producing any manufactured products in Canada?

There are some costs inherent in operating in Canada, part of which are due to the climate and part to the tax structure. Under present circumstances, Canadian wages are higher.

In the businesses in which we operate, given the free trade context, I think we would be much further ahead, from an economic point of view, in having all of those facilities south of the border and regarding that 3,000 mile strip along the border as being something that we would serve from strategically located plants in the United States. I think, too, it is important to remember that in manufacturing in Canada, our wage rates tend to be related to Cleveland, Detroit or Buffalo, which are about the highest wage areas in the United States. As one gets into the smaller towns in the midwest, or the southern part of the United States, one finds that wage rates are substantially lower that those which presently exist in Canada.

The Chairman: Do you think they will remain substantially lower because of the better climate and the attraction of living in those areas?

Mr. Powis: We have some structural problems in this country related to the militancy of the trade union movement and the hangup that we have with wage parity. I think industry at this point ought to start a crusade for wage parity with the United States, because we have now gone beyond most wages paid in U.S. industry. The Anti-Inflation Board targets for wage settlements are still above what is being settled for on a freely negotiated basis in the United States, and they seem to be violated with a great deal of impunity, unlike the price rules. It seems to me that we have a trend where wage rates are now higher, and likely to remain higher in nominal terms. I think in the end this has an inevitable impact on the value of our currency.

Senator Carter: They are higher in dollars but not in real value, because a salary of $10,000 in the United States is equivalent to, I think, about $13,000 in Canada in purchasing power.

Mr. Powis: I do not know whether the figure is right, but our taxes are certainly a great deal higher, our personal income taxes. Therefore what you get to take home out of whatever wages you get is much less in Canada than it is in the United states. That does not alter the fact that from

the point of view of the person paying the wages they have to be paid, and they are higher.

Senator Rowe: Would there be a differential, Mr. Chairman, as between British Columbia and the State of Washington?

The Chairman: Oh yes.

Senator Rowe: As much as Senator Carter suggested?

The Chairman: I can only speak for the forest industry, and the witness has already given those figures.

Senator Rowe: I was not really thinking of the value of the dollar. Senator Carter said a salary of $10,000 in the States was equivalent to $13,000 in Canada.

Senator Carter: A man earning $10,000 in the United states gets as much for it as a man earning $13,000 in Canada.

Senator Rowe: Would that apply to the border states and provinces?

The Chairman: Certainly in my experience in British Columbia—and I think it is the same in other parts of Canada—we could go down to Belllingham, if we were permitted to, and buy all our major appliances for hundreds of dollars less than we could in Canada, except for the cost of moving them.

Mr. Powis: The cost of living is lower and the taxes are lower.

The Chairman: The taxes are lower.

Mr. Powis: We had one example when hiring somebody from the United States, who was making $20,000 there; we had to pay him $34,000 to give him the same take home pay in Canada.

The Chairman: I might just mention, on that answer, that this was also raised with Mr. Culver on Tuesday, and he was quite explicit that it was a problem at the middle executive level in moving people within the country, back and forth and up to Canada, because of this very thing, that the amount that has to be paid is very substantially more in Canada to have the same take home pay and the same standard of living.

Senator Grosart: It is a very big subject, but there are other views on that. If you take the standard of living in terms of social indicators, you have to put in all the social benefits that are available in one country and not in another, and many other aspects. Far more Canadians at lower income levels own summer cottages than Americans; it is cheaper to do so; it is closer to home. Just taking dollars does not give a rational answer to this. That is one reason why this problem is more acute at the higher income levels, where the benefits, the social indicators, are far less important as a component of the total benefit in terms of living standards. I always find these dollar kinds of comparisons fruitless.

Mr. Powis: I think we get back to what we were originally talking about. To somebody who is trying to produce, say, wire cable or copper tube it matters a lot. If it is $6.50 in Toronto and it would be $4.50 in Memphis, Tennessee, that is very real to that manufacturer.

Senator Grosart: My point is, you may be paying $9.50 because you are paying additional money in taxes to support certain social benefits. That is why I say it is not a good comparison; you do not know what the real pay rate is.

Senator Carter: Mr. Chairman, you referred to what Mr. Culver said when this problem was raised. I then mentioned what Senator Grosart just referred to, the social indicators and the benefits. Mr. Culver's reply, you will recall, was that to the type of man they want at that age it is no consideration at all; he is not interested in that at that stage in his life.

The Chairman: These were executives that we were referring to then.

Senator Carter: Yes. Mr. Powis, you talked about making a comparison between locating a plant in Toronto or in St. Louis, or some other place, and you listed the various factors. There is one you did not list, and I am interested in it. That is the environment. There has been a struggle going on on the east coast. An oil company wanted to locate an oil refinery on the east coast of the State of Maine. The people in the area did not want the plant there because of the pollution problem, the damage to the environment. The company has been trying to explore a site in Nova Scotia, where they run up against the same problem; the Nova Scotians do not want it either. This is particularly the case with smelters. There is a phosphorous plant in Placentia Bay which is causing tremendous damage to trees for miles and miles around, to the air, and to people as far as I know. We have the same thing in Sudbury. Apparently when you want to locate new plants the question of pollution will be a significant factor. In your estimation, how significant a factor will it be?

Mr. Powis: It is obviously a very significant factor. It does not matter particularly whether you are talking about Canada or the United States, the rules are approximately the same. It depends, of course, on the type of operation. An electrolytic zinc plant, for example, is not a significant polluter. The first stage of that is roasting off the sulphur, but the process is such that the sulphur can be converted to sulphuric acid, and what you have is a sulphuric acid disposal problem; the pollution problem is not a serious one. Nor is it with a lead smelter, as long as you control the process properly. It is more difficult with copper, because technology does not exist to allow you to fix 100 per cent of the SO_2, and some of it has to go up in the air.

I would dispute your assertion that it is causing damage in Sudbury. In the Sudbury area, some parts of it look like the surface of the moon, but that is a hangover from what happened in the early 1900s, when they just cut down trees, put the ore on top of the resulting logs, burned the logs and the whole area was covered with a pall of SO_2. They also cut all the trees down, so the vegetation was burned off. But that damage was done a long time ago. I do not believe that any significant environmental damage is being done today in Sudbury. That does not alter the fact that these days people do not like the sight of smoke coming out of a stack.

Senator Carter: I think it is safe to assume that wherever you go, either in Canada or the United States, to locate a new plant, or even to upgrade one that you have, there will be an additional expense in avoiding damage to the environment. If you have a capital intensive industry now, it will be much more capital intensive in the future. With a capital intensive industry and fewer jobs, the

incentive to process in Canada is so much more diminished, is it not?

Mr. Powis: It is certainly a very significant cost factor. One of the things that I think should be understood is this. If you talk about further processing in Canada, in competition with what is already in place in Japan or Europe, the terrible problem we have in the world today—this is the specific Canadian problem—is the tremendous escalation in construction costs. The Gibraltar mine in British Columbia, for example, was put into production in 1972 at a cost of $63 million and would probably cost about $160 or $170 million to duplicate today.

In 1963 we completed the first stage of our zinc refinery in Valleyfield, Quebec at a cost of $16 million. We could not duplicate that today for $100 million. Therefore, when you think in terms of building new processing facilities and competing against facilities which were put in three, four, five or ten years ago, you are looking at a completely different capital base on which you then have to make a profit. It will not work. It just does not work.

One of the frightening things is the level of prices that are required to justify new facilities these days. It does not matter whether you talk about a pulp mill or a copper mine or an aluminum smelter or a zinc reduction plant. To get a reasonable rate of return on a new facility today requires a price very subtantially higher than the prices that are prevailing.

My conclusion from that is that whatever prices are needed are eventually going to apply, otherwise we are not going to have a new capacity, and we run into shortages. The implications of that, in terms of inflation, are a little bit frightening but they are going to come. When that happens, everybody is going to look at the money we are making on the facility we put in five years ago, or ten years ago and say, "You are ripping us off. You are making too much money" without regard to the fact that we are not comparing the same things. We might just as well put our profits in Japanese yen and our assets in British pounds. Today's dollar is not last year's dollar and it certainly is not the dollar five years ago.

This is one of the reasons why we have been very interested in trying to promote the idea of adjusting accounts for the impact of inflation, in some proper way. Unless that is done, people will never get a true picture of the health of an industry or how it is really doing.

In our own case, we made the calculation that in 1974 we had what appeared to be a very good year. We made $154 million net profit but if we could properly adjust our accounts to reflect the impact of inflation, that net profit would only have been about $80 million.

In 1975 we had what we regarded as a dreadful year. We earned about $52 million. If we adjusted our accounts properly to reflect the impact of inflation, there would have been a significant loss. We made no real money last year.

Profit is only real if you can take it out and pay it all to the shareholders without damaging the viability of your existing business, and in that sense the profits that people are reporting these days are not real.

Senator Grosart: In that case, why does the business community keep on talking about profits after taxes?

Mr. Powis: It is certainly better than talking about profits before taxes, which is less real.

Senator Grosart: You are not talking about profits after all taxes, that is the point. It gives a completely false impression. You are paying municipal taxes; you are paying sales taxes; you are paying all sorts of taxes, yet you keep saying over and over again that these are our profits after taxes.

Mr. Powis: After income tax is what we mean.

Senator Grosart: Only because this happens to be the way you have to account to the government.

Mr. Powis: That is right.

Senator Grosart: That is not the way you should be accounting to the public. My point is, you might just as well say profits after dividends, which in effect is a form of rent. I have often wondered why business does not wake up to this fact.

Mr. Powis: There are certain accounting conventions, Senator Grosart, that we would like to see changed and that is certainly one of them.

Senator Grosart: Good.

The Chairman: Senator Molson, do you have a question?

Senator Molson: I am not a member of your committee, Mr. Chairman, and I do not know if you would permit a question from me.

The Chairman: You are more than welcome to participate in any way you like.

Senator Grosart: Except to vote.

The Chairman: The only restriction we have in this committee is on voting.

Senator Molson: I did not know you were going to call a vote today!

In the context of Canada-U.S. relations, earlier on Mr. Powis mentioned the tariff and non-tariff barriers and so on. I was wondering if, in their experience, they ever found that there were other roadblocks thrown at them, other than the normal trade blocks which we see through tariffs or non-tariff barriers. Given the clout of the United States, for example, have you ever had any interference from the State Department or the Justice Department? I do not necessarily mean direct interference, but interference that you know of which has occurred.

Mr. Powis: The State Department, none that I can think of; the Justice Department, yes.

I guess there are a lot of cases in Canada where the Justice Department has tried to extend its jurisdiction in terms of U.S. anti-trust laws. I guess a year does not go by where we do not get some request or demand for information from the U.S. Justice Department on one matter or another, most of which we just turn down.

Senator Molson: I do not know about your business or industry, but this threat—and it very often is just a threat from the Justice Department—can cause rethinking of quite a number of possible plans and moves. Has this ever occurred in your business, where the threat, or the threat perhaps only indicated, has caused rethinking of possible plans and moves?

Mr. Powis: I cannot think of an example in our business—I am speaking strictly of Noranda at this point—

where that has happened. Quite obviously if you ever want to take something over in the United States, you worry about the Justice Department quite a lot, in terms of anti-trust. I think International Nickel at the moment is under investigation for their acquisition of ESB. That sort of thing happens but I think that is fair ball. That is in their own jurisdiction. I object to the Justice Department when they try to extend their jurisdiction outside the United States, which happens from time to time.

Mr. Hendrick: I was thinking of something in more the reverse context. I know, in appearing before the International Trade Commission on the lead dumping hearings, we found unexpected supportfrom the anti-trust division who attended the hearings and spoke in favour of open border trade as a way of increasing competition in the United States. I do not know how significant it was to the commission, but in that particular context they were trying to encourage Canadian imports into the United States.

Senator Rowe: What time do we adjourn, Mr. Chairman?

The Chairman: Well, we never go past 12.30 and today we may conclude prior to that.

Senator Rowe: I have a question, that is the only reason I am asking.

The Chairman: I see that I have no further names on my list, but I have one or two questions of my own.

Mr. Powis, would you give us your views on the matter dealt with by Mr. Culver on Tuesday in relation to, again, upgrading or further processing in Canada? I am talking specifically of aluminum extrusion and what comments you have on the development of aluminum extrusion plants in Canada. I believe you have one in Cleveland. You might comment on that part of the industry, and you might also explain why a plant like that could not have been built in Canada, or what the circumstances would be relative to the construction of a plant like that in Canada and the problems relative to the sale of the product.

Mr. Powis: To start with, maybe I should describe what it is we do in Cleveland. We have a very large plant there, close to one million square feet, where we produce aluminum windows, doors, sidings, all sorts of aluminum building products; the aluminum coming from our aluminum smelter in Missouri.

We distribute those aluminum products through some 80 odd warehouses throughout the United States. In relation to the operation as far as the distribution warehouses, it is fine, but we should not have that great big plant in Cleveland, we should have a number of smaller plants closer to the market. The products tend to be tailormade for the particular market you are operating in. You need fast delivery, otherwise your inventories get out of hand. In a great many cases, our warehouses are just too far away from that Cleveland plant and we are now considering the possibility of breaking it up into a number of smaller units.

Now, in relation to its being in Canada, it is a mistake in Cleveland and it would be an even worse mistake in Canada. Of course, we would have to climb over the tariff barriers on those products. But generally speaking in an industry like that you need to have your facility close to the market.

The Chairman: Mr. Culver used the expression "the higher the level of processing, the close to the market you have to be," or something to that effect.

Mr. Powis: I think that is true. It is true to an extent because of freight factors. It is also true just in terms of being able to make your deliveries quickly and being able to respond quickly to what the market wants; and to do it from one central location as we have it in Cleveland just does not work out very well.

It has implications for a lot of other things. If you go back to the concept of free trade, we have to remember that if you eliminate the border and look just at where the population in Canada is, it is a thin ribbon 3,000 miles long and 100 miles wide. To consider that Canada in a free-trade context would necessarily be the right place to make very many products is perhaps wishful thinking.

The Chairman: It would be so easily served because of the population.

Mr. Powis: It could be easily served from somewhere down in New York State. We are right out on the edge of the market looking in. It would be better to be closer to the middle and to spread out.

Senator Carter: Mr. Chairman, I wonder if you could continue the line of thought in terms of copper that you developed with respect to aluminum and the ratio between the number of jobs to produce the pound of ingot aluminum and the number of jobs to produce the aluminum extrusions.

The Chairman: Actually, the example I gave earlier, senator, was just in case one or two members of the committee had not been here on Tuesday, and it was with respect to sheet aluminum, not extrusions. Sheet aluminum is in a sense a bulk commodity which can be moved some distance to a market. When you deal with extrusions you are to the point where you must be close to the market to be able to manage it.

Mr. Powis: David Culver's example is a good one, but you have to get a fix on how far you want to take it. Having made the sheet, that is not the end of the line either. The sheet is made into perhaps a house. How far do you take your manufacturing down the line? Obviously, the house has to be produced where it is wanted. The sheet can be produced in Kingston, but there are not many jobs involved in that. There are probably a lot more jobs involved in building the house later on.

The Chairman: His point was that only 150 jobs were involved in the sheet plant, whereas 2,000 jobs were involved in producing the ingots for that sheet plant.

Mr. Powis: I would be rather interested in trying a similar analogy for certain of our copper products. I rather suspect it would come out in much the same way.

The Chairman: I might just ask you to do that, because I think there is a misconception in Canada in these areas which needs correction. Your analogy of the house applies particularly to the forestry industry in all parts of Canada but especially in my province. People refer to it as an extractive industry. Well, you harvest trees, but by the time you take it to two-by-fours it is hard to take it much further unless you want to make the house and ship it on the railway car.

Coming back to your concern about the over-valuation of the Canadian dollar—and you expressed that concern as quite a high degree of alarm in your testimony earlier—as a senior businessman in Canada, could you help me with a problem I have as to where we are going in this country? Our dollar is over-valued; our balance of payments is badly out of whack, but, not wanting to tighten our belt and reduce our standard of living to cover that gap, we import capital to keep ourselves at what we perceive to be the level we deserve to be at. The more we import capital, the more we drive up the value of the dollar, it seems to me; and the more we import capital, the more we encourage foreign ownership, most of which is from the United States, which we then complain about. How do we get out of this vicious cycle?

Mr. Powis: I do not know how we get out of it. Of course, the capital that we are importing today is not of a nature that is increasing foreign ownership in this country, because we are importing debt capital, which I guess in a sense makes it even worse because sooner or later we will have to repay it. Where do we get the money to do that? I am not a practising economist, but as I understand it we are maintaining the value of our dollar by virtue of a spread in interest rates.

The Chairman: To attract the capital.

Mr. Powis: To attract the capital in, yes. In the absence of which I suspect our dollar would be down at somewhere close to 85 cents U.S. How long do we do this? There is an end point to the amount of capital I suspect people are going to be prepared to put into this country in that form, and then when we get off that particular binge and the dollar drops, we have a renewed burst of inflation because all of our imports cost us more.

I share your concern about where the country is going. I do not have any answers to the question, other than the fact that sooner or later we will have to tighten our belts.

The Chairman: I will come to one further point closely related to that, and that is the formation of capital in Canada. You have given us some quite startling figures about the impact of provincial and federal taxes on your operations in Canada relative to the United States. In the most recent budget the allowable maximum of corporate profits was reduced to 85 per cent of profits over the previous five-year base period, or I believe you can choose a shorter term during that time. As we have had in that five years 30 per cent or 40 per cent inflation and this year we are having 10 per cent, and even if the guidelines succeed we will have 9 per cent next year and 8 per cent the following year, we are then talking about 85 per cent of 60 per cent, which is going to go down to 50 per cent so you will have 85 per cent of half, it seems to me. That may be oversimplification, but how is industry in Canada under these circumstances expected to generate the capital that can bring us to a point where, first, we can expand our industry and, second, we can stop importing so much of it.

Mr. Powis: Clearly we are not going to generate capital. Industry is not going to be able to generate capital in the context of being restricted to 85 per cent. As I understand it, it is 85 per cent of your average margins, 1970 through 1974, or 85 per cent of your margins in 1975, whichever you prefer. In our case that is a little bit like being offered a choice of arsenic or cyanide.

I guess I should go back to the fact that the earnings we are reporting in real terms are not what they appear to be, because of the fact that we are underproviding depreciation on our existing plant. The combination of those things produces the bad news that capital formation is not happening to the extent that it appears to be in the corporate sector or to the extent it should be. I guess the good news is that if you had the capital, what would you invest it in? In the context of the controls and in the context of our costs in this country, what sorts of projects really make sense? Certainly not mining projects with the tax system. We have a few great big spectacular things going on like James Bay and Syncrude, but what else?

The Chairman: And they are at the cost of the taxpayers.

Mr. Powis: Partly. I am a director of one of the companies participating in Syncrude, and I characterized that at their board meeting as one of the largest charitable contributions in Canadian corporate history, because I don't think the rate of return on that looks very attractive. I think you have put your finger on a very serious problem that exists in Canada. The corporate sector, in my view, is distinctly unhealthy in terms of the amount of money it is making, and that is available to it for purposes of investment.

Senator Grosart: What would be the United States comparison?

Mr. Powis: I am not quite sure how to make a comparison. The United States went through a much more serious recession than we did, which I think probably, in the end, was very healthy for them, because they have got their inflation rate under very much better control, they have their costs under better control, and corporate profits are rebounding there in a way that looks very healthy indeed. Then, of course, there is considerable scope in the United States for new investment, and I think those figures are going to start to strengthen in a very significant way. That is going to make the Canadian performance, if you pull out of it certain very large, spectacular projects that are going on, look pretty sick by comparison.

Senator Rowe: Would those investments be in the basic, primary fields, in the United States? You said there was considerable opportunity for investment in the United States right now.

Mr. Powis: Yes. I think it goes right through the spectrum at the moment. The biggest project we have under way is in the United States, and that is the expansion of our aluminum smelter down there. That, of course, is at the primary and of the scale.

I think you will probably see investments starting to flow in the United States right through the spectrum—from steel mills, through fabricating and manufacturing and so on.

The Chairman: There is a view in Canada, reflected in part of the statement made by the Minister of Finance in his budget address, to the effect that Canadian problems will solve themselves as the American economy improves, and that we will ride up with it as we have in the past. Have you any comment on that?

Mr. Powis: I think, if you take a very short-term view, that that is perfectly true: as the United States economy rebounds, our exports to the United States will strengthen. The long-term view, however, is that with the investment

climate as it is in this country, we will not be expanding. If you look at the implications of what is happening in Canada today, five years down the road I think is where we will really run into trouble.

From the short-term point of view I know that we are feeling better in our businesses. There was a period that we went through last year when there was no business at all: we were not shipping anything; nobody was buying anything; everyone was living on inventories; and obviously our exports to the United States and our shipments within Canada both suffered very severely. That has improved now, and our existing facilities will do better, and the United States economy will promote that; but where is the new investment coming from? Where is the expansion coming from?

Senator Grosart: In terms of Canada-U.S. trade, what are the relative advantages and disadvantages in the area of capital formation and re-investment in business?

Mr. Powis: Well, there is a number of things. First of all, the United States, fundamentally, has lower cost industry, and we are going to see, over the next little while, particularly if we make an adjustment for inflation, that United States industry is going to be very much more profitable, and this really means two things: one is that there are attractive opportunities for investment, and the other is that there is the money available for investment.

Senator Grosart: That is what I am asking. You refer to profit. Do you mean profit after taxes?

Mr. Powis: Profit after all taxes, yes.

Senator Grosart: This is very important in the whole area of Canada-U.S. trade, which is what we are dealing with here. How great is the constraint? What disadvantage, if it is a disadvantage, are Canadian producers, or marketers, under as compared to their United States competitors?

Mr. Powis: In terms of new investments?

Senator Grosart: Just in terms of capital generated for investment in production.

Mr. Powis: Well, the capital that is available has to come either from your earnings, or from your capacity to raise money from the market, and your capacity to raise money from the market is directly related to your profitability, so it all comes down to that bottom line of profits.

The constraint we have in Canada is that we have higher costs and higher taxes, and a third constraint is that we will get less, on balance, for our product than the American producer will, not only because we are further away from the market, but because we have to go over tariffs to get to the market; so all of these things act against us.

Senator Grosart: But if somebody were to say to you, "What is the percentage of disadvantage of locating in Canada vis-à-vis the U.S., in terms of capital that I would have available from profits to carry on my business?", what would you say?

Mr. Powis: Well, I don't think it is possible to generalize on that. It depends on the kind of operation and where it is located. For example, if you are looking at the comparison of operating a mine in British Columbia and somewhere over the border, the comparison almost becomes an infinity because if you do make any money, you pay almost all of it in taxes. You pay lower wages in the United States and you have somewhat lower construction costs in the United States and other costs will be lower in the United States so the same operation in the United States will produce a larger profit before taxes, and then an enormously larger profit after taxes. In the first instance it is the prospect of a profit which allows you to make the investment in the first place, and it is the existence of the profit which allows you to make new investments.

Senator Grosart: Let me put the question another way. What is the relative weight of all government taxation on profits in Canada and in the United States?

Mr. Powis: This is going to vary very, very much from jurisdiction to jurisdiction, and very, very much depending on the operation. Again if you want to take an extreme situation, the relative weight of taxes would be about a multiple of three, I would guess, as between, say, a potash mine in New Mexico and a potash mine in Saskatchewan. I suspect that a copper mine in Arizona or Nevada as against a copper mine in British Columbia would probably result in a factor of over two.

Senator Grosart: What about Ontario?

Mr. Powis: A copper mine in Ontario will pay in the aggregate about 50-60 per cent more taxes than it would in a typical United States jurisdiction. That now is speaking of the weight of taxes, but there are other weights also that come into play such as wage rates and things like that.

Senator Grosart: I am asking the question in this area because we are dealing with government policy and the effect of that policy on the trade flow between the two countries. It is a very important factor.

Mr. Powis: Well, as I think I said earlier, the net impact of government policy—or the policy of various governments because you cannot finger any individual one—is such in Canada as to make it impossible in most parts of the country for new investments in mining operations. In the end that profoundly affects the structure of our trade, because if you are not developing new mines, existing ones eventually go out of production and then you end up with a declining industry. Here again, as I said earlier, it seems to me to be extremely perverse in that the mining industry does account for about 25 per cent of our export earnings and we are going to need exportearnings in the future if the government is right that we are going to have to import more petroleum. We are going to need them more than ever before. It seems to me that one of the best prospects we have to increase our export earnings is in the mining industry where we have barely scratched the surface. One of the peculiar things, it seems to me when we talk about renewable resources and non-renewable resources, is that I think the scarcity we have in Canada is in the so-called renewable resources because your farm lands and your forest lands are finite. They are largely exploited. So your capacity to improve your growing cycle and that sort of thing is then becoming somewhat marginal with long-term increments. We have enormous scope for increased mining production in this country. It is something we do well andit seems to me that it is something that government policy in present circumstances ought to be encouraging.

Senator Grosart: Is this higher Canadian corporate tax load on profits a major factor in your decision to invest Canadian-earned money in United States resource development?

Mr. Powis: Yes, sir.

Senator Barrow: Mr. Powis, in table 4 you show a comparison of taxes, but it is really in provincial and state taxes that the wide gap exists. The federal taxes appear to be comparable.

Mr. Powis: That is right.

Senator Barrow: Is the situation the same with respect of many states as you show for Nevada?

Mr. Powis: Yes.

Senator Barrow: I just wondered why it was selected.

Mr. Powis: We picked Nevada because we have a mining operation there and are more familiar with the tax system in that state than in other parts of the country. In the table, the provincial taxes includes the provinces' share of federal income tax in the case of British Columbia and Ontario, while there is no state income tax in Nevada—it is all federal income tax. Therefore the Canadian government collects a higher figure than we have shown in the table, but the 10 or 12 points it rebates to the provinces is shown as provincial taxes.

The Chairman: If there are no further questions, honourable senators, and just before thanking our witnesses, I would like to recognize Mr. John Bonus, the Managing Director of the Mining Association of Canada, who is sitting at the side of the room and joined us after the hearing commenced.

On your behalf, honourable senators, I would like to extend our profound thanks to Mr. Powis for attending today, for carefully prepared introductory remarks, for the helpful tables he has laid before us, and for his frank, useful and helpful answers to our questions.

I wonder if I might have the agreement of the committee to pursuing with Mr. Powis the offer he made a few moments ago to consider the possible preparation by his company of some tables as to the job intensity at various levels of processing in the industry. These tables, when prepared, could form part of this record, or could be introduced at a later time.

Hon. Senator: Agreed.

Mr. Powis: I will be happy to do that, sir.

The Chairman: Thank you.

The committee adjourned.

APPENDIX "A"

TABLE 1

NORANDA GROUP

BREAKDOWN OF GROSS REVENUES (1975)
(MILLIONS OF DOLLARS)

GROSS REVENUES	FROM CDN. OPERATIONS	FROM U.S. OPERATIONS	FROM OTHER OPERATIONS	TOTAL
FROM MINE PRODUCTS	$ 639	$ 2	$ 27	$ 666
FROM MANUFACTURED PRODUCTS	345	119	76	540
FROM FOREST PRODUCTS	252	121	-	373
TOTAL	$1,234	$242	$103	$1,579
% OF TOTAL	78%	15%	7%	100%

TABLE 2

NORANDA GROUP

SALES FROM CANADIAN OPERATIONS (1975)

	SALES IN CANADA		SALES IN U.S.		SALES ELSEWHERE	
	MILL.$	%	MILL.$	%	MILL.$	%
MINE PRODUCTS	$309	49	$105	16	$224	35
MANUFACTURED PRODUCTS	324	94	21	6	-	-
FOREST PRODUCTS	140	56	68	27	44	17
	$773	63	$194	16	$267	21

TABLE 3

U.S. Production and Imports - 1974

Selected Mine Products
(000 short tons)

	Copper	Zinc	Lead
Mine production	1,594	494	669
Apparent concentrate stockpiled	(166)	(144)	(58)
Net concentrate imports	31	240	94
Smelter production	1,459	590	705
Unrefined metal imports	208	-	-
Refined metal imports	177	521	56
Stockpile releases	149	264	226
Apparent consumption	1,993	1,375	987
% of U.S. requirements			
Imported as concentrates	2%	18%	10%
Imported as unrefined metal	10	-	-
Imported as refined metal	9	38	6
Released from stockpile	8	19	23
Canada's share of U.S. net imports			
of concentrates	65%	68%	44%
of refined metal	67	52	73

Note: Production and consumption figures ignore secondary materials.

Source: American Bureau of Metal Statistics

TABLE 4

Brenda Mines Limited

Tax Comparison - Recent Conditions

Thousands of dollars	In B.C.(a)	In Ont.(b)	In Nevada(b)
Earnings before taxes	$5,818	$5,818	$5,818
Provincial/state taxes	2,645	1,389	291
Federal taxes	1,455	1,455	1,327
Earnings after taxes	$1,718	$2,974	$4,200
Effective tax rate	71%	49%	28%

(a) Results shown are actual results for 1975.

(b) Assumes that, if the mine happened to be in Ontario or Nevada, exactly the same revenues and costs would apply.

TABLE 5

BRENDA MINES LIMITED

TAX COMPARISON - PRICES DOUBLED

THOUSANDS OF DOLLARS	IN B.C.(A)	IN ONT.(B)	IN NEVADA(B)
EARNINGS BEFORE TAXES	$45,789	$45,789	$45,789
PROVINCIAL/STATE TAXES	26,687	14,220	2,289
FEDERAL TAXES	11,447	11,447	14,596
EARNINGS AFTER TAXES	$ 7,655	$20,121	$28,904
EFFECTIVE TAX RATE	*83%*	*56%*	*37%*

(A) ASSUMES THAT COSTS ARE AT THE SAME LEVEL AS IN 1975 BUT THAT PRICES OF COPPER AND MOLYBDENUM ARE DOUBLED.

(B) ASSUMES THAT, IF THE MINE HAPPENED TO BE IN ONTARIO OR NEVADA, EXACTLY THE SAME REVENUES AND COSTS WOULD APPLY.

TABLE 6

CANADIAN PRODUCTION AND EXPORTS
SELECTED MINE PRODUCTS
(000 SHORT TONS)

COPPER	1960	1965	1970	1973	1974
MINE PRODUCTION	439	509	673	908	929
CANADIAN CONSUMPTION	118	225	238	254	273
AVAILABLE FOR EXPORT	321	284	435	654	656
EXPORTED AS CONCENTRATES	41	80	173	402	365
EXPORTED AS METAL	282	205	262	252	291
% OF PRODUCTION AS METAL	91%	86%	74%	56%	61%
% OF EXPORTS AS METAL	87	72	60	39	44
ZINC					
MINE PRODUCTION	430	822	1,252	1,352	1,278
CANADIAN CONSUMPTION	53	105	117	148	148
AVAILABLE FOR EXPORT	377	717	1,135	1,204	1,130
EXPORTED AS CONCENTRATES	149	463	791	766	808
EXPORTED AS METAL	228	254	344	438	322
% OF PRODUCTION AS METAL	65%	44%	37%	44%	37%
% OF EXPORTS AS METAL	60	35	30	36	28
LEAD					
MINE PRODUCTION	205	292	389	427	336
CANADIAN CONSUMPTION	45	63	54	76	78
AVAILABLE FOR EXPORT	160	229	335	351	258
EXPORTED AS CONCENTRATES	46	110	184	227	197
EXPORTED AS METAL	114	123	151	124	61
% OF PRODUCTION AS METAL	78%	63%	53%	47%	41%
% OF EXPORTS AS METAL	71	53	45	35	24

NOTE: THE DATA ABOVE ELIMINATES PRODUCTION FROM SECONDARY MATERIALS AND EXPORTS FROM INVENTORIES ACCUMULATED IN PRIOR YEARS. THUS, THE EXPORT FIGURES WILL NOT AGREE WITH THOSE IN SUBSEQUENT TABLES. DATA FOR 1974 FOR LEAD AND ZINC ARE DISTORTED BY A LENGTHY STRIKE AT A MAJOR CANADIAN PRODUCER.

SOURCE: STATISTICS CANADA AND AMERICAN BUREAU OF METAL STATISTICS

TABLE 7

EXPORTS OF SELECTED CANADIAN MINE PRODUCTS, 1974

	CONCENTRATES		METAL	
COPPER	000 S.T.	%	000 S.T.	%
PRODUCED IN CANADA	929	100	616*	100
CONSUMED IN CANADA	564	61	273	48
AVAILABLE FOR EXPORT	365	39	343	52
EXPORTED TO THE U.S.	22	6	114	37
EXPORTED TO EUROPE	40	11	176	56
EXPORTED TO JAPAN	315	83	3	1
ALL OTHER EXPORTS	-	-	18	6
ZINC				
PRODUCED IN CANADA	1,278	100	470	100
CONSUMED IN CANADA	470	37	148	31
AVAILABLE FOR EXPORT	808	63	322	69
EXPORTED TO THE U.S.	180	19	263	81
EXPORTED TO EUROPE	522	55	35	11
EXPORTED TO JAPAN	216	23	-	-
ALL OTHER EXPORTS	38	3	27	8
LEAD				
PRODUCED IN CANADA	336	100	139	100
CONSUMED IN CANADA	139	41	78	56
AVAILABLE FOR EXPORT	197	59	61	44
EXPORTED TO THE U.S.	27	13	31	39
EXPORTED TO EUROPE	50	24	38	48
EXPORTED TO JAPAN	124	58	-	-
ALL OTHER EXPORTS	11	5	10	13

NOTE: FIGURES FOR ACTUAL EXPORTS DO NOT AGREE WITH THE AVAILABILITY FOR EXPORT FIGURES BECAUSE OF ADDITIONS TO OR SHIPMENTS FROM INVENTORIES.

* INCLUDES SOME METAL PRODUCED FROM IMPORTED MATERIALS.

SOURCE: STATISTICS CANADA

TABLE 8

CANADIAN EXPORTS TO THE U.S.
SELECTED MINE PRODUCTS
(THOUSANDS OF SHORT TONS)

COPPER	1960	1965	1970	1973	1974
EXPORTED AS CONCENTRATES	15	6	4	14	22
EXPORTED AS METAL	100	73	92	126	114
TOTAL	115	79	96	140	136
% AS METAL	87%	92%	96%	90%	84%
ZINC					
EXPORTED AS CONCENTRATES	115	201	318	136	180
EXPORTED AS METAL	74	88	121	348	263
TOTAL	189	289	439	484	443
% AS METAL	39%	30%	28%	72%	59%
LEAD					
EXPORTED AS CONCENTRATES	26	43	41	23	27
EXPORTED AS METAL	26	32	64	53	31
TOTAL	52	75	105	76	58
% AS METAL	50%	43%	61%	70%	53%

NOTE: DATA FOR 1974 FOR LEAD AND ZINC ARE DISTORTED BY A LENGTHY STRIKE AT A MAJOR CANADIAN PRODUCER.

SOURCE: STATISTICS CANADA FOR 1973 AND 1974
AMERICAN BUREAU OF METAL STATISTICS FOR PRIOR YEARS

TABLE 9

Canadian Exports to the U.S.

Selected Mine Products

(Percentage of exports shipped to the U.S.)

Copper	1960	1965	1970	1973	1974
% of concentrate exports	36	8	2	4	5
% of metal exports	35	36	35	40	37
% of total exports	36	28	22	20	20
Zinc					
% of concentrate exports	77	36	40	14	19
% of metal exports	36	35	35	75	81
% of total exports	53	36	39	34	35
Lead					
% of concentrate exports	57	39	22	11	13
% of metal exports	23	26	42	43	39
% of total exports	33	32	31	23	20

Note: Figures shown are total exports, including exports from inventories accumulated in prior years. Data for 1974 for lead and zinc are distorted by a lengthy strike at a major Canadian producer.

Source: Statistics Canada for 1973 and 1974
American Bureau of Metal Statistics for prior years

TABLE 10

Comparison of 1974 Canadian Mine Production of Selected Metals with 1976 Metal Production Capacity (000 short tons)

Metal Production Capacity	Copper*	Zinc	Lead
Noranda group	480	225	80
Inco	210	-	-
Cominco	-	280	210
Texasgulf	-	120	-
Hudson Bay Mining	-	80	-
Total	690	705	290
1974 Mine Production	929	1,278	336
% 1976 Metal Capacity of 1974 Ming Production	74%	55%	86%

* Refinery capacity.

Source: American Bureau of Metal Statistics

TABLE 11

VALUE ADDED AT DIFFERENT LEVELS OF AN INTEGRATED COPPER INDUSTRY

VALUE ADDED THROUGH MANUFACTURED PRODUCTS	PERCENTAGE OF WAGES PAID	PERCENTAGE OF VALUE ADDED
MINING AND CONCENTRATING	29%	24%
SMELTING AND REFINING	10	10
ROD MILLS	2	2
WIRE AND CABLE	59	64
TOTAL	100%	100%
VALUE ADDED THROUGH PRIME METAL		
MINING AND CONCENTRATING	74%	71%
SMELTING AND REFINING	26	29
TOTAL	100%	100%

SOURCE: TASK FORCE ON UPGRADING
DEPARTMENT OF INDUSTRY, TRADE AND COMMERCE.

APPENDIX "B"

TABLE 12

CAPITAL REQUIRED, DIRECT EMPLOYMENT CREATED AND VALUE ADDED AT DIFFERENT LEVELS OF AN INTEGRATED COPPER INDUSTRY

APITAL REQUIRED(MILL.$)	MINING & CONC.	SMELT. & REFINING	ROD MILL	WIRE & CABLE	TOTAL
FIXED ASSETS	$300	$250	$15	$190	$755
WORKING CAPITAL	20	30	15	110	175
TOTAL	$320	$280	$30	$300	$930
MPLOYEES REQUIRED	1,200	450	50	2,500	4,200
ALUE ADDED					
PER POUND COPPER	$0.75	$0.25	$0.02	$0.69	$1.71
PER YEAR (MILL.$)	$150	$50	$4	$138	$342
ER EMPLOYEE					
FIXED CAPITAL	$250,000	$556,000	$300,000	$ 76,000	$180,000
WORKING CAPITAL	17,000	67,000	300,000	44,000	42,000
TOTAL CAPITAL	$267,000	$623,000	$600,000	$120,000	$222,000
VALUE ADDED PER YEAR	$125,000	$111,000	$ 80,000	$ 56,000	$ 81,000
HROUGH ROD					
% OF CAPITAL REQUIRED	51%	44%	5%	-	100%
% OF EMPLOYEES	71	26	3	-	100
% OF VALUE ADDED	74	24	2	-	100
HROUGH WIRE & CABLE					
% OF CAPITAL REQUIRED	35%	30%	3%	32%	100
% OF EMPLOYEES	29	11	1	59	100
% OF VALUE ADDED	44	15	1	40	100

OTE: THE ABOVE ASSUMES DEVELOPMENT OF TWO TYPICAL BRITISH COLUMBIA OPEN PIT MINES EACH PRODUCING 50,000 TONS OF COPPER IN CONCENTRATE PER YEAR, INTEGRATED WITH A SMELTER PLUS REFINERY CAPABLE OF PRODUCING 100,000 TONS OF METAL PER YEAR. ALL OF THE METAL WOULD THEN BE ROLLED INTO ROD WHICH WOULD THEN ALL BE DRAWN INTO BUILDING WIRE. CAPITAL COSTS ARE ESTIMATED IN UNESCALATED 1976 DOLLARS AND A COPPER PRICE OF $1.00 PER POUND IS ASSUMED.

OURCE: ESTIMATES BY NORANDA GROUP COMPANIES.

TABLE 12A

Capital Required, Direct Employment Created and Value Added At Different Levels of an Integrated Copper Industry

Capital Required (mill.$)	Mining & Conc.	Smelt. & Refining	Tube Mill	Total
Fixed assets	$300	$250	$160	$710
Working capital	20	30	90	140
Total	$320	$280	$250	$850
Employees Required	1,200	450	1,400	3,050
Value Added				
Per pound copper	$0.75	$0.25	$0.30	$1.30
Per year (mill.$)	$150	$50	$60	$260
Per Employee				
Fixed capital	$250,000	$556,000	$114,000	$233,000
Working capital	17,000	67,000	64,000	46,000
Total capital	$267,000	$623,000	$178,000	$279,000
Value added per year	$125,000	$111,000	$ 43,000	$ 85,000
Through Sheet or Tube				
% of capital required	38%	33%	28%	100%
% of employees	39	15	46	100
% of value added	58	19	23	100

Note: Assumptions are as in Table 12 except that the copper metal is converted into tube.

Source: Estimated by Noranda Group companies.

Notes Regarding Tables 12 and 12A

Calculations regarding the value added at various stages of the copper processing chain can vary widely depending on assumptions regarding the price of the metal and what final product is produced. Thus, it is possible to vary these assumptions and prove almost anything.

In these calculations, a copper price of $1.00 per pound has been assumed. This is considerably more than the present level (although considerably less than the high in 1974). The $1.00 price was used simply because it is the level that would be needed to justify the investment figures shown as being required for new mining, smelting and refining capacity.

Figures for value added in manufacturing are actual figures prevailing in today's markets. However, it should be noted that the scale of plant assumed simply would not be built in Canada, as the production levels would be far in excess of domestic requirements for the products involved.

Given these assumptions, the proportion of value added at the various stages varies widely with the final product.

% of Total Value Added	Mining & Concentrating	Smelting & Refining	Manufacturing
Rod	74%	24%	2%
Tube	58	19	23
Building wire	44	15	41

Certain other conclusions are obvious and not particularly surprising:

Notes Regarding Tables 12 and 12A (Cont'd)

(1) Fixed capital required per employee tends to decrease with the stage of processing, while working capital requirements per employee tend to increase. In total, however, capital required per employee is greatest at the primary end of the chain.

(2) Conversely, value added per employee tends to decrease with the stage of processing. Given the structure of our wage rates, this has implications for the competitive position of fabricating industries in Canada. Empirical evidence also suggests that the higher the value added per employee, the more likely the venture is to be successful in a Canadian context.

(3) Figures relating to smelting and refining appear anomalous, in that the capital required seems out of proportion to the value added. Nevertheless, this is the actual situation today, and is the reason why new smelting and refining capacity is difficult to justify from an economic standpoint.

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FIRST SESSION—THIRTIETH PARLIAMENT
1974-76

THE SENATE OF CANADA

PROCEEDINGS OF THE

STANDING SENATE COMMITTEE ON

FOREIGN AFFAIRS

The Honourable GEORGE C. van ROGGEN, *Chairman*

Issue No. 37

TUESDAY, JUNE 8, 1976
TUESDAY, JUNE 22, 1976

Second (Final) Proceedings on:

Bill C-20, intituled:
"An Act respecting citizenship"

(Witnesses—See Minutes of Proceedings)

AUG 1976
UNIVERSITY OF TORONTO

THE STANDING SENATE COMITTEE ON FOREIGN AFFAIRS

The Honourable George C. van Roggen, *Chairman;*

The Honourable Allister Grosart, *Deputy Chairman.*

and

The Honourable Senators:

Asselin	Lafond
Barrow	Laird
Bélisle	Macnaughton
Cameron	McElman
Carter	McNamara
Connolly (*Ottawa West*)	Rowe
Croll	Sparrow
Hastings	Yuzyk

Ex officio Members: Flynn and Perrault.

(Quorum 5)

Order of Reference

Extract from the Minutes of the Proceedings of the Senate, of Wednesday, 5th May, 1976:

Pursuant to the Order of the Day, the Senate resumed the debate on the motion of the Honourable Senator Connolly, P.C., seconded by the Honourable Senator McIlraith, P.C., for the second reading of the Bill C-20, intituled: "An Act respecting citizenship".

After debate, and—
The question being put on the motion, it was—
Resolved in the affirmative.

The Bill was then read the second time.

The Honourable Senator Connolly, P.C., moved, seconded by the Honourable Senator McIlraith, P.C., that the Bill be referred to the Standing Senate Committee on Foreign Affairs.

The question being put on the motion, it was—
Resolved in the affirmative.

Robert Fortier,
Clerk of the Senate.

Minutes of Proceedings

Tuesday, June 8, 1976
(45)

Pursuant to adjournment and notice, the Standing Senate Committee on Foreign Affairs met at 10:05 a.m. this day.

Present: Honourable Senators van Roggen (*Chairman*), Barrow, Cameron, Carter, Connolly (*Ottawa West*), Croll, Lafond, Laird, Macnaughton, McNamara and Yuzyk. (11)

Present but not of the Committee: Honourable Senator Forsey.

In attendance:

Mr. J. S. Stanford, Director,
Legal Advisory Division,
Bureau of Legal Affairs,
Department of Secretary of State for External Affairs.

The Committee resumed its detailed study of Bill C-20, An Act respecting citizenship.

Witnesses:

From the Department of the Secretary of State:

Mr. Lewis Levy, Director of Legal Services.

From the Department of Justice:

Mr. L. P. Landry, Q.C., Assistant Deputy Attorney General (Criminal Law);

Dr. B. L. Strayer, Q.C., Assistant Deputy Minister (Planning and Research); AND

Mr. F. E. Gibson, Q.C., Chief Legislative Counsel.

From Canadian Bar Association:

Mr. David E. Osborn, Executive Director;

Mr. C. Stephen Cheasley of Montreal, Chairman of National Section on Real Property; AND

Mr. Donald Greenbaum of Toronto, Chairman of the Immigration Committee.

And ALSO:

Mr. R. L. du Plessis, Senate Law Clerk and Parliamentary Counsel.

On Clause 33: Paragraph (e) of Sub-clause 8 was further clarified.

During the latter part of the meeting, the Honourable Donald Cameron occupied the Chair.

At 12:30 p.m. the Committee recessed until later this day.

AFTERNOON SITTING
(46)

Pursuant to adjournment and notice, the Standing Senate Committee on Foreign Affairs resumed at 2:08 p.m. with Honourable Donald Cameron in the Chair.

Present: Honourable Senators Cameron (Acting Chairman), Bélisle, Carter, Connolly (*Ottawa West*), Lafond, Macnaughton and Yuzyk. (7)

Present but not of the Committee: Honourable Senator Forsey.

The Committee continued its study of Bill C-20.

Witnesses:

From the Canadian Bar Association:

Mr. C. S. Cheasley, Chairman of National Section on Real Property; and

Mr. Donald Greenbaum, Chairman of the Immigration Committee.

From the Department of Justice:

Dr. B. L. Strayer, Q.C., Assistant Deputy Minister, (Planning and Research);

Mrs. Barbara Reed, Constitutional Adviser.

From Department of Secretary of State:

Mr. Lewis Levy, Director of Legal Services.

At 3:05 the Committee adjourned to the call of the Chair.

ATTEST:

Tuesday, June 22, 1976
(48)

Pursuant to adjournment and notice, the Standing Senate Committee on Foreign Affairs met at 3:28 p.m. this day.

Present: Honourable Senators van Roggen (*Chairman*), Asselin, Cameron, Carter, Connolly (*Ottawa West*), Croll, Lafond, Macnaughton, McElman, McNamara and Yuzyk.

Present but not of the Committee: Honourable Senators Riel and Godfrey.

In attendance: Mr. Lewis Levy, Director of Legal Services, Department of Secretary of State; and Mr. R. W. Nichols, Registrar, Citizenship Registration Branch, Department of Secretary of State.

The Committee resumed its consideration of Bill C-20, An Act respecting citizenship.

Witnesses: Honourable Ron Basford, Minister of Justice and Mrs. Barbara Reed, Constitution Advisor, Department of Justice.

On Clause 33:

Following discussion, on motion of Senator Connolly (*Ottawa West*) Clause 33 was adopted.

Clauses 23, 39 and the Schedule were discussed and adopted.

The Title and the Bill were adopted and the Chairman was instructed to report the Bill without amendment.

At 4:55 p.m. the Committee adjourned to the call of the Chairman.

ATTEST:

E. W. Innes,

Clerk of the Committee.

21682—2

Report of the Committee

Tuesday, June 22, 1976

The Standing Senate Committee on Foreign Affairs, to which was referred Bill C-20, intituled: "An Act respecting citizenship", has, in obedience to the order of reference of Wednesday, May 5, 1976, examined the said Bill and now reports the same without amendment.

Respectfully submitted.

George C. van Roggen,
Chairman.

The Standing Senate Committee on Foreign Affairs

Evidence

Ottawa, Tuesday, June 8, 1976

The Standing Senate Committee on Foreign Affairs, to which was referred Bill C-20, respecting citizenship, met this day at 10 a.m. to give consideration to the bill.

Senator George van Roggen (*Chairman*) in the Chair.

The Chairman: Honourable senators, we are continuing our study of Bill C-20, respecting citizenship. As honourable senators will recall, all clauses of the bill have been adopted with the exception of clause 33. Clause 33, in a sense, is not directly part of the citizenship aspect but has been added to this bill for the purposes that have been explained to us. It is probably the most logical place to have it, but it is not directly part of the citizenship aspect.

Senator Macnaughton: Mr. Chairman, it might be of interest if someone explained why it was added to this bill.

The Chairman: We will undoubtedly get to that.

Appearing from the Department of Justice are: Mr. B. L. Strayer, Q.C., Assistant Deputy Minister (Planning and Research); Mr. L. P. Landry, Q.C., Assistant Deputy Attorney General, (Criminal Law); and Mr. F. E. Gibson, Q.C., Chief Legislative Counsel.

As Mr. Landry has to leave shortly, I will first call on him to deal with the criminal law aspects, following which I will call on Mr. Strayer and Mr. Gibson.

Mr. Stanford of the Legal Advisory Division, Department of External Affairs, is here in the event that questions arise relative to that department. Following the presentation and explanations from the departmental officers, we will be hearing from members of the Canadian Bar Association. I welcome Mr. Donald Greenbaum, of Toronto, Chairman of the Immigration Committee, Canadian Bar Association; Mr. C. Stephen Cheasley, of Montreal, Chairman, National Section on Real Property; and Mr. David E. Osborn, Executive Director.

Mr. Levy, who has been before us throughout the hearings on the bill, is back today. He is here to answer Senator Connolly's question relative to the reference to July 4, 1883, in clause 33(8). None of us could divine what that date referred. I might ask Mr. Levy to clear that up right now.

Mr. Lewis Levy, Director of Legal Services, Department of Secretary of State: The answer to your question, Senator Connolly, is that while there were pre-Confederation statutes in Canada going back to 1849 permitting aliens to hold land, the first statute of Parliament was the Naturalization Act of 1881, which for some reason or other was not assented to and did not come into force until July 4, 1883.

By way of interest, it seems that there were a number of land transactions in Manitoba that took place in the interval, between the time the act was passed in 1881 and the time it was proclaimed, and in order to validate them Parliament, I think two years later, passed another statute validating all those Manitoba land transactions.

The Chairman: I now call on Mr. Landry to deal with the criminal sanction contained in the subsection.

Mr. L. P. Landry, Q.C., Assistant Deputy Attorney General (Criminal law), Department of Justice: I understand that on the criminal aspect questions were asked about subclause (5) of clause 33. I would like to comment on that, and leave to further questioning any other matter you may wish to raise about the criminal implications.

The Chairman: Is it subclauses (4) and (5)?

Mr. Landry: Particularly subclause (5). Subclause (4) creates the offence for the person who actually commits the offence, which could be the company or the individual. A question has been raised whether this was an offence of strict liability or an offence for which guilty knowledge was necessary. Until the courts have finally pronounced on it we may be in the realm of argument. I would tend to favour the view that this is an offence of strict liability, and an argument could be made for it. However, I would not wish to pronounce *ex cathedra* on the matter. My view is that it appears to be an offence of strict liability, and this is what I would attempt to hold. That is subclause (4), relates to the person actually committing the offence, whether it is an individual who purchased the land or a corporation.

In subclause (5) we come to the area of administrators. It says:

> ... officer, director or agent of the corporation who directed, authorized, assented to, acquiesced in or participated in the commission of the offence.

Here we can state, with authorities in support, that an officer or director of a company who participated in the offence committed by the company could not be found guilty unless he had guilty knowledge, the meaning of which I will explain. That applies whether or not the offence is one of strict liability. If it is an offence of strict liability on the part of the company, through subclause (5) a director participating in the commission of this offence would need to have guilty knowledge in order to commit the offence. Guilty knowledge means knowledge of the facts that amount to the offence. It does not include knowledge of the law, because everybody is presumed to know the law. Here the director would have to know the facts constituting the commission of the offence.

Senator Connolly (Ottawa West): An officer too.

Mr. Landry: I will use the word "administrator," if you wish. The word I am using includes all the persons mentioned in subclause (5).

My authority is *R. vs. Woolworth & Co. Ltd.*, the reference for which is, in case you wish to read the case, 18 C.C.C. 2nd, page 23. This case concerned an offence of misleading advertising, which has been held to be of strict liability. A person was authorized by the Woolworth company to operate a kiosk within Woolworth premises and was selling ballpoint pens. An advertisement by that person was ultimately held to be misleading, and Woolworths were charged with having participated in that offence: an offence of strict liability. The Court of Appeal of Ontario said this:

> There are two principal reasons for holding that Woolworth was not a party to the offence charged.

The first reason goes to the issue we are discussing.

> Even with respect to offences of strict liability, the alleged aider must know that he is aiding. Although it is not necessary that it be proven that he knows that the conduct he is aiding constitutes an offence, it is necessary that the accused be proven at least to have known the circumstances necessary to constitute the offence he is accused of aiding.

Therefore, he would need to know the facts amounting to the commission of the offence, although it may be that he does not know there is a law creating an offence as a result of this set of facts. The director in this case could not be found guilty unless he knew that shares of his corporation were held by a certain percentage of non-residents.

Senator Connolly (Ottawa West): What year was that case?

Mr. Landry: It is very recent. The decision was rendered on March 21, 1974.

Senator Macnaughton: May I interrupt? It is many, many years since I was a crown prosecutor of the City of Montreal, so I am very rusty on my law, but I cannot get over the general principle that words should be given their ordinary meaning. You have cited a case. It is only a case. Yet if you look at the bill it says:

> . . . is a party to and guilty of.

There is only one interpretation of that. You can argue until you are blue in the face about lack of guilty knowledge and all the rest of it, but this sort of drafting of legislation is against our fundamental principles. Why do you not simply add "without cause"? Then you obviate all this interpretation of cases, and so on.

Mr. Landry: If you read any section of the Code you will find it says that a person who does certain things "is guilty of".

Senator Macnaughton: That is right.

Mr. Landry: The law says "is guilty of the offence," but one has to look at the prerequisites, which are that the officer directs, authorizes, assents, acquiesces in or participates in the commission of the offence. Even if that offence is one of strict liability, the courts have held that to be a party to an offence of strict liability you must know the facts leading to the offence. If you stay with those words, "directed . . . the commission of the offence," it would be difficult for someone to direct without knowing what he was directing. "Authorizes" means some kind of wilful act; it is not accidental. With the words "assented to" you go right to the mind of the person.

Senator Macnaughton: From your side of the table, sitting in your nice office in Ottawa, that may be true, but in practical life, for a director of a company or an officer of a large corporation so many things go on that in the Standing Senate Committee on Banking, Trade and Commerce we always insist on using the words "without cause" or similar words. Year after year this comes up, and year after year we find this. I cannot understand why people representing the Department of Justice do not understand this argument.

Mr. Landry: I almost addressed you as "My Lord", senator!

Senator Macnaughton: Suppose the court of appeal is reversed next year, where do we go from there—back to you for interpretation?

Mr. Landry: I am just out of the courts. I have been there for 15 years pleading cases day after day. I have never really had any problems with the interpretation of such a section in the Income Tax Act, which we have applied continuously.

Senator Macnaughton: You are a very good attorney, that is obvious. I am speaking of a simple-minded person.

Mr. Landry: To proceed further with my explanation, senator, you have the principle that if the main offence is one of strict liability, the aider or participant, notwithstanding the fact that it is of strict liability, must have knowledge.

I have respect for the Court of Appeal of Ontario, and this principle is expressed in no uncertain terms. It is not an interpretation of their wording I am giving you; it is the very wording they are using. Therefore, it would be extremely difficult for one to go beyond that.

When we say the participant in an offence, even of strict liability, must have knowledge, what is meant by "knowledge"?

The court makes an analysis of the well-known principles relating to the interpretation of the word "knowledge" for a criminal offence. Knowledge can be actual knowledge: of the events which occurred. Knowledge has also been interpreted as including wilful blindness. An example of this would be a young man leaving Japan with oxygen tanks which he is asked to transport to Vancouver. He is paid for doing this. They are supposed to be empty, but they weigh a little bit and he does not want to know what is in the tanks. He arrives in Vancouver and the tanks contain hashish. That is wilful blindness. He did not have actual knowledge that they contained hashish, but because he wilfully refrained from asking questions he could have asked, then he has knowledge and the courts have so held.

There is a third degree of knowledge which is indicated, and that is when one would say he ought to have known, he was somewhat negligent, and he could have known. That does not amount to guilty knowledge. The way it is expressed is that constructive knowledge—often described by the words "ought to have known," means that the person had the means of knowledge. But, that does not amount to guilty knowledge.

They quote an English case, which is often quoted on this matter, and which clearly states that this last area of possible knowledge does not constitute knowledge in the criminal sense.

Senator Connolly (Ottawa West): What is the British case?

Mr. Landry: It is *Roker v. Taylor's Central Garages*, 1 1951; 2 Times Law Reports, 284. It is quoted at page 30 of the report.

The Chairman: Mr. Landry, in the interest of making as much progress as possible today, I wonder if I could ask for your comments on what is really concerning a lot of us in this, as opposed to these specific points of law you are now making which apply to offences under the Criminal Code and something I agree with. We are here dealing with a matter where you are delegating authority to the lieutenant governor in council of a province or such other person authorized by him.

Mr. Landry: Mr. Strayer will deal with that question. You are dealing with the constitution of the legislation.

The Chairman: I am coming to this matter of criminal sanction, which you have used here. You are in this section delegating authority to the lieutenant governor in council, under federal statute, to take action under that federal statute which will give the action he takes all the sanction of that federal statute. He may in turn delegate that authority.

In my province of British Columbia there is a person called a "rentalsman." Let us say, for the sake of argument, that he delegated that authority to the rentalsman. We will have to get from Mr. Strayer what is meant by "to prohibit and annul or in any manner restrict" with regard to title to land in British Columbia; where it might be published and how one would find out about it. The rentalsman's office then passes some obscure regulation in British Columbia and the man sitting on the board of directors of a company in Toronto has his manager come before the board and say, "We have bought a small mining company in British Columbia." He therefore knows the facts which you have just been dealing with. If his company in Ontario were 7 per cent American owned, let us say, but the rentalsman said, "Any company in British Columbia 5 per cent American owned is foreign and may not take title to land," and this mining company had purchased some land, he would be guilty of the offence by the "knowledge" that they bought that company.

Mr. Landry: So would any person, because it would be ignorance of the law.

The Chairman: The objective of legislation surely is not to make offences under the law so obscure that no one can find them.

Frankly, I would like you to address yourself, if the other members of the committee agree, to this extraordinary situation we have in this particular case where we have ten different provinces passing obscure prohibitions, annulments and restrictions of which a man cannot possibly be expected to have knowledge from one end of Canada to the other. That is the matter we are focussing upon, not your perfectly proper definition of offences of strict liability and knowledge.

Mr. Landry: It is for this very purpose that that section is included in this legislation. You are aware that section 21 of the Criminal Code is a section which defines parties to offences. It is of general application, not only to the Criminal Code but to all the statutes of Canada. If you look at section 27(1) of the Interpretation Act, you will find that all the sections of the Criminal Code dealing with indictable offences or summary conviction offences apply to all statutes.

Section 21 says:

> Every one is a party to an offence who (a) actually commits it,

The principle . . .

> (b) does or omits to do anything for the purpose of aiding any person to commit it,

If you do not have subsection (5), you still have section 21 of the Code, which applies to the same extent. However, by putting this section in this act, and because of the danger of the possible provincial legislation which may be obscure or unknown, this will put all directors and officers of companies, who will hopefully have in front of them this law, on notice.

They may not know of section 21 of the Code but they will know of this section, which is a reminder of section 21 in clear terms. They will know they are on notice and that they will have to use more precaution in their dealings with the various provinces. That is the very purpose of this clause, which is to some extent a repetition of the general principle in our criminal law, in section 21, but it has now put every officer on notice.

Senator Laird: Perhaps by telling you this I may save a lot of time. I, for one, will never vote for this bill as long as clause 33 is in it. The entire clause will have to come out, as far as I am concerned. I am not going to give the lieutenant governor of any province enabling legislation, to legislate that some person who is a non-Canadian can succeed to real property, for example. No way will I vote for this bill. I am only speaking for myself, but this may save you a lot of brain power in discussing the penalty clause.

Mr. Landry: I am only addressing my mind to the penalty clause.

Senator Laird: That may become redundant. Clause 33 is vicious.

Senator Macnaughton: That goes back to the original question I posed at the opening of this meeting: Why include this in an act respecting citizenship?

Senator Laird: Speaking for myself, I am not encouraged by language of this kind, pertaining to any province, to pass legislation of the kind that is permitted.

The Chairman: Senator Laird, I understand and sympathize with the feelings you have, but the provinces can pass restrictive legislation relative to non-residents holding land in the provinces, and that is being upheld by the Supreme Court of Canada. But this is an effort of the federal government to enable the provinces to pass regulations by which they do not catch other Canadians, who are not residents of the province, in the same basket in which they catch foreigners.

Personally, I will not vote for this clause, on the basis that it is too obscure. How on earth does a person in a business in Ontario think to himself, "I have to go and look at the Citizenship Act, because in a very obscure section of the Citizenship Act there is a serious criminal sanction against me that might apply if some rentalsman in British Columbia has passed an obscure prohibition or annulment or restriction which I have never even heard of." The last place I would think of going and looking is the Citizenship Act.

Senator Laird: That is what I was trying to get at.

The Chairman: You see, Mr. Landry, elsewhere in this bill you have the word "knowingly" thrown around. For example, in clause 28(1)(a) you have "knowingly," and in clause 28(1)(c) "knowingly permits"; and then you have "for the purpose of," "without lawful authority," "knowing it to have been unlawful." So here you have the saving words throughout the offence clauses, until you come to this one particular thing which will be the most obscure crime in the whole of Canada and where you refuse to give anybody the out of "knowingly" or "without due cause" or what-have-you, in respect of a criminal sanction which you do not need in the first place because nobody can take the land out of the country; it is here. I wonder if you need a criminal sanction at all, because the land is in Canada. We control the land registry offices and we control the physical land. Who can take it away or do anything with it if it is improperly transferred into somebody's name? You can simply get a judge to transfer it back again. To me, it is an unnecessary level of brutality.

Mr. Landry: Even on that point, honourable senators, whether you need to have an offence created here or not, one reason for it is that if you do not specify that offence then you fall under section 115 of the Code. Section 115 says, "Every one who, without lawful excuse, contravenes an Act of the Parliament of Canada by wilfully doing anything", so you have the wilful aspect commits an offence punishable by two years' imprisonment, and it would be an indictable offence with no option to proceed by way of summary conviction. There is this general, catch-all clause in the Criminal Code such that whenever a statute prohibits something, if no offence is created in that very statute to meet that specific situation the Criminal Code catches it, but this time it is an indictable offence with no option for summary conviction and with a possible two-year jail term.

The Chairman: I do not want to be unnecessarily argumentative, Mr. Landry, and that is a perfectly correct exposé of the law, but you do not come to the point I am making, which is on the question of passing off to the provinces this power to make regulations which are then going to attract the sanction of the Criminal Code of Canada. And it appears to be done in such an obscure fashion.

Mr. Landry: I will let Mr. Strayer reply to that, except to point out that this is not necessarily unusual. For example, looking at it from the other way round, when we speak of the government property regulations, we adopt into the federal legislation, by reference, all of the provincial motor vehicle acts, so that if one violates, on federal property a provincial motor vehicle act, one commits an offence against the federlal statute, and we do not need to legislate actually on motor vehicles for vehicles that will go on federal property. In this way we adopt any law which may from time to time have application in the provinces. So that is not an unusual format where a specific area of legislation may fall more within the confines of one legislative authority than another. By way of reference, then, federal legislation or provincial legislation may be adopted.

Senator Laird: We agree with you on the mechanics of it 100 per cent, Mr. Landry. We just do not like this policy. That is the point. We do not want you to wrack your brain too much, if it is unnecessary.

Senator Connolly (Ottawa West): Mr. Chairman, having been the sponsor of the bill does not necessarily mean that my purpose here is to have the bill go through in a sacrosanct manner. In the history of this clause, or in the history of the circumstances described in this clause, we know that certain provinces have been putting restrictions upon the transfer of real estate. In some cases those restrictions have excluded anyone but residents from holding land in the particular province.

I think Prince Edward Island was the case in point. It was felt that this kind of restriction was invidious and that there were people in Nova Scotia and New Brunswick and in the maritime area generally, or even in other parts of Canada, who might in fact have a legitimate reason for owning land in Prince Edward Island. From that point of view, this legislation is a liberal step and is a relieving piece of legislation because it gives to the province an additional power, in that the federal authority, which has the power to deal with aliens and with legislation in respect of aliens, is conferring that power upon the province. From that point of view, it is a relieving provision.

When you start from that premise, I think the justification for the other parts of the clause is that they have a good deal more meaning and do not look to be the kind of restrictive provisions which they m ight otherwise be. This must be a policing thing. Having said that, I come back to the point made by Senator Macnaughton and Senator Laird: What would be wrong or difficult were you to change the wording in subclauses (4) and (5) to provide that not only should strict liability not lie but it should be perfectly cear that it does not lie? I suggest that the way to do that is to insert the words "without reasonable cause." Other than going back to the House of Commons with this measure, what is the difficulty of putting that phrase in so as to make it crystal clear that we are not legislating strict liability? I should add this: the cases you gave us, particularly the Woolworth case, are compelling ones, but having said that, as Senator Macnaughton pointed out, it is only the sophisticated person—the lawyer, the expert—who knows that strict liability does not apply there, and that you do apply the principles that were decided in the Woolworth case. That is fine, but what is wrong with adopting a canon of draftsmanship that would make it crystal clear that strict liability is not to apply?

Mr. Landry: At this time, senator, there would be this immediate problem, namely, that we have possibly 10 to 15 acts that contain a similar provision, worded in almost exactly the same words. If we amend this proposal we have to move very quickly with the others, because this case would not stand up any more, since the argument would then be made that the legislature has specified very clearly in one case that you need *mens rea,* which would assist the proponents of the other thesis, and this would go down the drain. We have now had an interpretation of similar provisions.

Senator Connolly (Ottawa West): I do not know that that follows, because you have many cases where *mens rea* is not required, and you have the clause, "without strict liability." That does not affect those cases.

Mr. Landry: This case, I respectfully submit, affects the interpretation of all the laws that contain this provision; but if this provision is changed there will be a difference between the intent shown in this one and the other texts, so that we would be creating problems. I submit that we have to be very cautious in the drafting of laws so as to draft them in a uniform way.

Senator Connolly (Ottawa West): One more with this phrase in it is not going to make that much difference, and I am putting a proposition to you, not stating something; but I do not think that one more insertion of the words "without reasonable case" is going to disaffect to the degree that you suggest, because you already have it in many, many other statutes.

Mr. Landry: You mean, "without reasonable excuse."

The Chairman: Senator Connolly, the other 15 or 20 statutes that Mr. Landry mentioned are all federal statutes with a federal offence in them; they are not statutes with this unique character of passing over to the provinces this peculiar and unusal right.

Senator Connolly (Ottawa West): That is really another point.

Mr. Landry: But with regard to these words, "without reasonable excuse," ignorance of the law would not be a reasonable excuse. Ignorance of the facts would be a reasonable excuse, but that is, of course, already an excuse under the law as drafted.

Senator Connolly (Ottawa West): That brings up the chairman's point.

Mr. Landry: What I am suggesting is that if, in subclause (5) the words "without reasonable excuse" appear, and we start comparing this wording with similar wording, but without the words "without reasonable excuse" that appear in all of the other statutes, people could start asking what the distinction is that is intended between the way this subclause is drafted and the way other clauses are drafted. Are we going to refer back in all the other cases to see whether the words "without reasonable excuse" do not appear; and, if so, are we now going to be confronted with an offence of strict liability? An argument could be made, when interpreting texts that are meant to cover the same situations, but where different words are used—

Senator Connolly (Ottawa West): In the face of the Woolworth case?

Mr. Landry: —that because of the addition of these words a difference would be made in exactly similar texts in acts such as the Income Tax Act, and a number of others that I can mention, where you do not have these words. I submit that you do not need these words. If we did not have the Woolworth case, I would say that somebody might make an argument for their inclusion, but in the light of the Woolworth case that point is decided very clearly, and I would submit that there is no danger of that construction being made.

Senator Connolly (Ottawa West): Of course, the Woolworth case does not relieve from strict liability the offence created in subclause (4).

Mr. Landry: No, it does not.

On subclause (4) I submit that I could argue, and would argue, that this is an offence of strict liability because of the point that has been made that, for instance, in certain provinces it might be found that it is not proper, convenient or appropriate that there be foreign ownership of land, and that could be interpreted as an offence of strict liability. Then it is a question of policy to determine whether this is what the legislature wishes. If the legislature does not wish to have an offence of strict liability, then the legislature may say so; but that is the only way I can answer your question.

Senator Carter: I am a little confused. I listened to what Senator Connolly said about the invidious restrictions contained in some provincial legislation. Does clause 33 lessen the invidiousness or does it reinforce it by giving the lieutenant governor in council of the province the right to go ahead and pass that sort of thing?

The Chairman: Perhaps I might put on the record, Senator Carter, in answer to your question, the background to this. All members of the committee may not be aware of it, though I think it is public knowledge.

I believe this question arose at the federal-provincial conference. The Prime Minister, in talking with the provincial premiers, raised the subject of the Prince Edward Island case, which arose as a result of the passing by that province of restrictive legislation saying that only residents of the province could own land there. It was agreed that it was unfortunate, but that eliminating everybody that did not live in the province was the only constitutional mechanism available to the province, which, however, captured other Canadians in the basket.

The Prime Minister undertook to see what the federal government could do to enable the provinces to restrict ownership of land in so far as foreigners were concerned, but not to catch Canadians in the basket at the same time. This is what this is aimed at, and this is why Senator Connolly and Senator Macnaughton said what they did. It is aimed at being relieving legislation; it is supposed to relieve.

Senator Carter: I do not see how it relieves.

The Chairman: I do not personally object to what they are trying to do. I object to the way they are going about it.

Senator Connolly (Ottawa West): Senator Carter does not quite see that it relieves. Senator Carter, it relieves in this sense: the Supreme Court of Canada has said, in the Prince Edward Island case, that it is within the jurisdiction of the province to restrict ownership of land to residents. Let us say that people in Nova Scotia and New Brunswick come along and say, "We want to own land there. We have this right"—it may be a hereditary right or what-have-you—"and we are not allowed to own it." What this does is to allow the Province of Prince Edward Island to change that legislation and to say, "Foreigners shall not own land, but other residents of Canada can."

You ask, "Why is this necessary?" It is necessary because jurisdiction to legislate in respect of alien ownership of land is federal, and here it is being delegated to the province so that the province can restrict its restriction to dealing with aliens and not with residents.

Senator Carter: You say they can, but it does not mean they have to.

The Chairman: Oh no. This is only enabling legislation. If they wish to, they may.

Before we go off on to that, are there other questions relative to the criminal provisions of subclauses (4) and (5)? If not, we can allow Mr. Landry to go.

Senator Laird: I think he has made a very good case. He is a good lawyer. It is just the other aspect of it that we are quarrelling about.

Senator Connolly (Ottawa West): He still has not satisfied me that the injection of that phrase, "without reasonable cause", in these two subclauses does anything more than put it into the category of other subclauses in other statutes, where the phrase does appear and does not disaffect the finding in the Woolworth case. However, that is all right.

Senator Macnaughton: I endorse the remarks of my colleague to the right, Senator Connolly, admitting at the same time that the witness is a brilliant attorney.

Mr. Landry: There are other lawyers here who are as competent as I, I assure you, Mr. Chairman.

The Chairman: Thank you, Mr. Landry.

Mr. B. L. Strayer, Q. C., Assistant Deputy Minister (Planning & Research), Department of Justice: Mr. Chairman and honourable senators, I thought, after reading the transcripts of the earlier discussion on this section and on hearing some of the questions raised this morning, that it might be helpful to the committee to try to deal briefly with the question as to why this section was proposed in the fist placle and to give you something of the considerations that went into the proposal of this admittedly somewhat uncommon kind of provision.

As the chairman mentioned, in May 1973 there was a federal-provincial conference of First Ministers and some of the provinces had raised concerns about the apparent increase in the rate of foreign acquisition of land in Canada. The subject was discussed and it was agreed by the First Ministers that a federal-proncial committee of officials should be establised to look at certain aspects of this question. The Prime Minister then appointed me to chair a committee of officials on this subject.

The terms of reference of the committee were in part to identify legal, constitutional, and land-use problems related to the ownership of land in Canada by aliens, and related to the ownership of land in a province by a Canadian citizen who is not a resident of that province; also to examine ways in which the federal and provincial governments might co-operate in dealing with these problems, and to make recommendations for legislative or administrative changes which could overcome or avoid possible legal or constitutional difficulties.

In looking at this problem in the meetings of the committee officials, a number of things emerged. One was that the problem varied greatly as a practical matter across the country. In some parts of the country there was no significant concern about it, while in other parts, and most notably Prince Edward Island and Saskatchewan, there was considerable concern. Obviously there was growing concern in Ontario, and a select committee of the Ontario Legislature, which was sitting about that time, had made certain recommendations which were never fully adopted by the Government of Ontario, so far as I know. That was the factual background which we found. I think it is important to keep that in mind in looking at the structure of this provision.

We then addressed ourselves to our principal mission, which was, of course, to look at and examine the legal and constitutional difficulties in dealing with this problem. It was apparent that there was a great deal of overlapping of interests, federal and provincial, in this area. These interests largely reflect the respective legislative authority of the two levels of government. There was obviously a federal concern beause of Parliament's jurisdiction over aliens, and there was a federal concern because of the implications for our foreign relations with respect to the manner in which we deal with non-citizens, the consequences that may have for Canada in international law, and the consequences it may have for Canada in regard to our relations with other countries.

There was also a certain national economic interest in this question, an interest which had been manifested by the passage of the Foreign Investment Review Act, which touches also on the question of foreign ownership of land. On the other hand, it was equally obvious that there was a major provincial interest in this area. The provinces have very broad jurisdiction over property matters flowing from section 92(13) of the BNA Act concerning "property and civil rights". This embraces questions of ownership, succession and such matters. They obviously have a great interest in the matter also because of their ownership of Crown lands. In some provinces this is very substantial. I think in Newfoundland 97 per cent of the land is Crown owned, and in British Columbia I think it is somewhere in the region of 93 per cent while, in Prince Edward Island there is virtually no Crown land at all, so that problem also varies a good deal from one part of the country to another. Obviously the provinces had a jurisdictional and proprietary interest in that question. Under section 92(16), where they have jursdiction over matters of a local or private nature they obviously have also a legislative interest. I suppose this may cover such matters as land-use, land-use planning; and obviously they have jursdiction over questions of zoning and general development of land in the province. So it was obvious that there was a multiplicity of interests here at both levels of government, and there was no easy solution to the problems.

There was an immediate question that if the provinces were going to try to regulate this in some way they would have a constitutional problem, and possibly a problem of conflict with federal law. The constitutional problem would flow from federal jurisdiction over aliens and over matters dealing with the regulation of trade ans commerce, peace, order, and good government, et cetera. The problem of potential conflict with federal law arose principally out of a section in the existing Citizenship Act which you are in the process of replacing, and that is section 24 which was the forerunner or the counterpart of clause 33(1) in Bill C-20. Section 24, as Mr. Levy said, had been there since 1883, the first time after Confederation that Parliament dealt with this problem and it said that non-Canadians or aliens had the same right as Canadians to own property. That obviously set up a potential conflict with any provincial law which might restrict the rights of aliens.

The report of our committee was submitted in 1974 and was tabled in Parliament and published in 1975. The committee recognized these problems and the federal and provincial officials looked for ways in which they might be met, and they identified some possibilities. One of the possibilities, and the one I think it is fair to say which created least difficulties, is the possibility which essentially is embodied in clause 33.

On that point—because I understand there may be some submissions to you on the question of the constitutionality of this arrangement—I think I am being fair to my colleagues on that committee of officials in saying that there was no serious question raised about the validity of this kind of arrangement. Some delegations doubted its necessity, because some provinces believed, and still believe, that section 24 is either not valid or it is not a real

impediment to their actions with respect to aliens. Be that as it may, their concern was not with this device itself but with the question as to whether it was really necessary. So this is why we tended to focus on the *Citizenship Act* and to look there for a way of dealing with this particular problem.

From what I have said, I believe certain things flow which are reflected in the clause itself. The problem does vary throughout the country and there is a varying degree of interest and concern regarding it. Not all provinces want to do something about it. For that reason and other reasons, it did not seem likely, probable or feasible for Parliament to regulate all acquisitions of land by aliens in Canada. If one considers all that that involves, it might involve the purchase of property for cottage construction in Ontario, the acquisition of a Saskatchewan farm or a piece of Prince Edward Island ocean front, or whatever. One can imagine the complexity of any system of federal regulation of all these issues and the potential conflict, if not in law at least between federal policy and provincial policy, with respect to many of these issues. So we endeavoured to respect and reflect the interests of the federal authority on the one side and the provincial authorities on the other, in proposing this arrangement. While on the one hand certain authority is given to the Lieutenant Governor in Council, or his designate, to exercise certain control, on the other hand in clause 33(6) certain conditions are attached to that control. These conditions, we thought, reflected the vital interests of the federal government and of Parliament. They are generally of a nature such as to avoid our becoming involved in conflicts with other countries and to ensure that policies which are legitimately pursued by the federal government under its authority in law are not subverted by policies which the provinces might pursue in the exercise of this delegated authority. That is the reason for the section being drafted in this manner.

There was the other issue, which has been adverted to this morning, which Senator Connolly explained better than I can. That is the concern, I think, of a broad policy nature which the Prime Minister has expressed on various occasions and with respect to which he has written to the premiers, that Canadian citizens not be precluded from owning land in provinces other than those in which they reside. At the particular time of the meeting of the committee the Prince Edward Island case of Morgan and Jacobson was before the courts, and while the province had won in the Prince Edward Island courts it was on appeal to the Supreme Court of Canada and there was still some room for debate as to what would be the outcome of that case. Nevertheless, it appeared that there was a large measure of authority for the provinces to exclude non-residents from ownership and, indeed, in the event, in the decision of the Supreme Court this was proven to be the case. So the underlying concern of the federal government in this—referred to in statements of the Prime Minister and other ministers—was to find the means whereby what appeared to be a growing social, cultural or economic problem, however you view it, might be dealt with without impairing or denying at the same time the interests of Canadian citizens by provincial action which in order to be valid would sweep both non-resident Canadians and non-resident aliens into one regulatory scheme. This is the real issue. If nothing is done in connection with this point, the provinces, if they wish to keep outsiders from buying land in their jurisdiction, have to exclude all non-residents, without regard to their citizenship, a result which gave the Government of Canada some concern.

I might then speak briefly to the question of the system of delegation, because I understand that there may be some discussion of this as a result of the submission of the Canadian Bar Association. Its representatives were good enough to put me on notice of some of the issues they propose to raise. There may be a question in the minds of some with respect to the system of delegation provided in this bill. Admittedly, this is not a common form of delegation but is delegation, in part, to a lieutenant governor in council.

As we understand the cases, the major barrier to delegation of authority between the two levels of government relates to the delegation of legislative power, and that must be understood in a very particular sense. The leading case on the matter, with which I am sure honourable senators are familiar, is the so-called *Nova Scotia Interdelegation Case* of 1950 in the Supreme Court of Canada, 1950, SCR. 31, in which there was in issue a proposed statute which would have enabled the legislature of Nova Scotia to delegate power to the Parliament of Canada to deal with labour relations matters, and also contemplated a delegation by the Parliament of Canada to the legislature of Nova Scotia of power to deal with the same type of matters. That is, it might enable Parliament to deal with all labour relations in Nove Scotia, or it might enable the legislature of Nova Scotia to deal with all labour relations in Nova Scotia without regard to whether the industry in question came within federal jurisdiction or provincial jurisdiction. The Supreme Court maintained that that was not a permissible form of delegation.

We have examined that case at great length, to see what the real impediment was as interpreted by the court. It seems to be based upon two concerns. One, that a legislature, whether it be provincial or the Parliament of Canada, should not give up its own authority because it is assigned certain authority by the BNA Act and it is expected to exercise that authority and not give it up. Secondly, the other side of that coin is that a legislative body cannot be given jurisdiction above and beyond that given it by the BNA Act, so that the receiving authority cannot have its jurisdiction enhanced simply by an act of Parliament or an act of a legislature.

Senator Connolly (Ottawa West): Are we not doing that all the time, for example with respect to the Canada Pension Plan as between Quebec and the federal authority? There was a mutual surrender in connection with that, was there not?

Mr. Strayer: That is a special case, senator, because of the amendment made to section 94A of the BNA Act.

Senator Connolly (Ottawa West): I remember, yes; for the survival rights.

Mr. Strayer: Well, I should go back to the original version of section 94A, which was added in 1951 and really established concurrent jurisdiction in that area.

Senator Connolly (Ottawa West): Yes, they did it the other way. In other words, they amended the BNA Act, then proceeded to legislate, or at least to deal with jurisdiction.

Mr. Strayer: Yes. However, there are other examples of rather similar results which have been achieved through what is sometimes known as delegation of administrative

authority. Parliament has, for example, delegated to provincial marketing boards the authority to regulate the interprovincial and international aspects of trade in a commodity for which that provincial authority already had jurisdiction under its provincial law to regulate the local trade.

Senator Connolly (Ottawa West): The tax collection agreement is maybe an administrative agreement.

Mr. Strayer: Yes. However, there again, there is really concurrent jurisdiction.

Senator Connolly (Ottawa West): Yes; they both have power to tax.

Mr. Strayer: The Motor Vehicle Transport Act, which Parliament passed in 1954, is another example of where Parliament has delegated to provincial highway traffic boards the authority to regulate interprovincial trucking or bus transport.

One can argue about semantics and say that what we are doing in this bill somehow involves a delegation of legislative authority to the lieutenant governor in council. But as I understand the Nova Scotia delegation case, when they talked about legislation they were talking about legislation to be passed by Parliament or legislatures. I cannot find, from a careful reading and rereading of the case, any direct or indirect prohibition of delegation of authority to any agency of a provincial government.

It may be that the lieutenant governor in council, because of his proximity to the provincial legislature, may appear to be an arm of the legislature; but the fact is there is no wholesale transfer of legislative authority to the lieutenant governor in council to make laws in relation to a particular matter, as in the Nova Scotia case where the delegation was held to be invalid.

Here you have a general principle laid down by Parliament that aliens are entitled to hold land in the same manner as Canadian citizens. But then we are proposing that the lieutenant governor in council shall be enabled to make certain exceptions to that general proposition.

This is not unlike some provisions which now exist. For example, in the Criminal Code there is a certain general prohibition against lotteries. Section 190 of the Criminal Code authorizes the lieutenant governor in council to license certain lotteries—in other words, to make an exception to the general rule which Parliament has laid down. The conditions which are attached to this conferring of authority in clause 33, particularly in subclause (6), make it clear that the lieutenant governor in council is acting within a certain ambit prescribed by the Parliament of Canada.

Of course, Parliament, in the final analysis, can always withdraw this conferral of authority if at some point it finds that the way the provinces are exercising it is not acceptable.

I should mention also that the regulations which the lieutenant governor in council is enabled to make under subclause (3) would come, in our view, within the purview of the Statutory Instruments Act, which would mean that they would first have to be submitted to the federal government and would have to be reviewed by the Privy Council Office and by the Department of Justice for comment with respect to the criteria laid down in that Act. Also they would have to be published in the Canada *Gazette*.

Senator Connolly (Ottawa West): And they would have to go before Senator Forsey's committee.

Senator Forsey: They would indeed.

The Chairman: You are speaking there of the regulations?

Mr. Strayer: Yes. I was making the point that this is a very special kind of delegation, that is subject to some considerable restrictions.

The Chairman: It appears that the lieutenant governor in council or someone else under subclause (2) can do certain things, make certain rulings, that would not involve regulations. Then, under subclause (3), he may pass regulations which would become regulations under this act relative to subclause (3)(a), (b) and (c). But those regulations would not include all of the prohibitions, annulments and restrictions referred to in subclause (4). So there are two things.

Mr. Strayer: That is true, although presumably subclause (3)—

The Chairman: So the regulations you are speaking of are only those confined to subclause (3)?

Mr. Strayer: Yes, and to the extent that those things are specifically authorized in subclause (3), it would be our interpretation that they are not covered by subclause (2). I think this is germane to one of your concerns, Mr. Chairman, that provinces might have rather odd regulations about what constitutes control of a company. Conceivably they might, but that would be embraced within subclause (3)(b) and would be subject to the Statutory Instruments Act and would be found in the *Canada Gazette*.

If I might complete my general comments, I should make one or two other observations on the whole problem of federal-provincial relations in this context. The point has been made that the provinces can now deal with all non-residents alike. They can take that route and, if nothing else is done, someone will continue to take that route. It was therefore apparent that in devising another route, which would enable them to focus on aliens alone, it was important to have a route which was reasonably workable from their point of view, and which they would not reject out of hand as being unduly restrictive of their fixing of their own priorities and their reflecting their own concerns particular to their region and province.

Therefore, as to the extent of flexibility that is to be left to the provinces in the way they handle this thing, I think it is fair to say, from discussions I have had with provincial officials, that it would be difficult for them to accept a system where all the conditions were handed to them by Parliament and there was no discretion left for them whatsoever. There would thus be a concern that they would simply go on with regulating all non-residents including non-resident Canadians.

I note, Mr. Chairman, some concern expressed in the committee about the possibility of abuse by the provinces of these powers. The question may be raised as to whether it is always to be assumed that provinces will abuse their powers.

One must recognize that this is in an area of property law, where they now have virtually plenary jurisdiction. I do not know that the evidence would support the general proposition that the provinces tend to be abusive about their property laws.

If one looks also at the two provinces where they are regulating non-residents, the rules which they have adopted seem to be quite reasonable, fair and open. For example, on the problem of the non-resident heir, in the case of Prince Edward Island I understand that they do not in practice prevent the non-resident heir from taking the property if it is taken by inheritance from a deceased resident owner. In Saskatchewan there are some circumstances where there is no restriction on inheritance by the non-resident. In those cases where there is a restriction and the non-resident becomes owner of the property, he is given five years to dispose of the property—which would seem to allow for people to deal with their property in a reasonable and not unduly oppressive way.

The Chairman: Are you suggesting that those provinces were a little more careful in their draftsmanship?

Mr. Strayer: I guess, Mr. Chairman, I am drawing the distinction between an enabling provision and what is done under an enabling provision. Just as the BNA Act says that provinces may legislate about property and civil rights, that does not mean, in fact, that they are going to go out and oppressively deny people the right to own, transfer or inherit property. One might assume that the same thing would obtain where Parliament enables them to deal with transactions of property having regard to a particular kind of potential owner.

Senator Forsey: If I may interrupt for a moment, Mr. Chairman, even if they did engage in very disreputable practices, technically there always remains the power of the Government of Canada to disallow a provincial act.

The Chairman: When was that last used, Senator Forsey?

Senator Forsey: In 1943—a point which I know is close to your heart, Mr. Chairman.

The Chairman: Yes.

Mr. Strayer: Of course, the regulations made pursuant to subclause (3), being regulations made under an act of Parliament, will be subject to the Canadian Bill of Rights as well.

I might just say a word about one or two questions which were raised earlier in the discussion. This flows from what I have just said, Mr. Chairman, about the concern over the criminal law being used to support provincial regulations. There was some concern expressed that people ought not to be subject to a multiplicity of provincial laws in this respect. I do suggest that anyone doing business in a province now has to find out what the applicable provincial laws are, and this would certainly be true with respect to provincial laws dealing with acquisitions by non-residents. Of course, this proposed regime would be a provincial regime with a difference in that there would be an element, that being the regulations under subclause (3), which would come under some federal scrutiny and which would also be published in the *Canada Gazette*.

There was a question as to why criminal sanctions should be used at all in this respect. If I understand the purpose correctly, there was some concern about deterring deception in these matters. It is true, as the chairman says, that land is not easily moved. You can buy land in a province today and everyone knows where it is. It will still be there next week, or next year. However, I am sure for example that some of my colleagues in the legal profession have not overlooked the fact that there are ways of structuring acquisitions of property which make it rather difficult to know whether it is a foreigner acquiring the beneficial interest in that property or whether it is a Canadian. That, I think, has something to do with the need for some penalties. Of course, there is a facility in prosecution which is provided by having a federal penalty clause, that being that it is much easier to prosecute people outside of the province where the issue arises, if there are people outside the province involved.

I might terminate my initial remarks at this point, Mr. Chairman, and deal with any further questions that members of the committee might have.

The Chairman: Thank you, Mr. Strayer.

Honourable senators, I am going to ask Senator Cameron to take the chair. Before doing so, however, there is one example I should like to put to Mr. Strayer.

About two or three years ago, I saw a Province of British Columbia draft bill relative to foreign ownership of land. It was not passed. It was the type of thing that people can dream up. It would have had the effect of making it impossible for a non-resident mortgagee to take title on foreclosure. Foreign mortgagees have invested billions of dollars in Canada, and we have a policy in this country whereby, as I understand it, we prefer to see foreign capital come in as debt rather than equity. Certainly, mortgage money is a classic example of what we like to have in the way of foreign capital.

What bothers me about this delegation of authority is that an act, such as the draft act I saw, could be passed by the provinces without any control whatsoever on the part of the federal government. That can be done provincially, I admit, but this one will be done under the guise of regulations pursuant to a federal statute. In that event, we could never persuade the mortgage lenders in other countries that it was simply something done provincially, with the federal government not being in a position to do anything about it. This would be done pursuant to regulations under a federal statute.

I hope honourable senators will pursue the whole very nebulous area of regulations which will be published under this act and gazetted and available for people to look at only being confined to subclause (3), paragraphs (a), (b) and (c). Why should not every rule and regulation made by a lieutenant governor in council relative to the ownership of land for which criminal sanctions are going to apply, and these other things, be subject to regulations, which regulations could then bring the matter at least under the Bill of Rights, thereby getting away from this business of a person again delegating, a second delegation, passing prohibitions, annulments and restrictions not in the regulations which could say anything and which could be changed from day to day without anyone ever knowing about them?

Those are some of the things I hope honourable senators will pursue. I apologize for having to leave.

Senator Donald Cameron (*Acting Chairman*) in the Chair.

Senator Laird: Mr. Strayer, I presume you agree that the Parliament of Canada has exclusive jurisdiction over citizenship.

Mr. Strayer: Yes, senator.

Senator Laird: All I can say is that given the policy, with which I heartily disagree, you and your committee have done an excellent job in carrying out that policy in this legislation. On the matter of policy, I am simply not going to go after you because you are not responsible for that.

What I would like to do, Mr. Chairman, from a practical standpoint, is to hear from the Canadian Bar Association delegation, having in mind that, as a practising lawyer myself, the ramifications of this proposed legislation leave one just gasping from the point of view of title searches and other practical matters. I agree with Mr. Strayer's excellent exposition on the constitutional situation. He has done a good job on that. Speaking for myself, however, in principle I think the policy is wrong.

The Acting Chairman: Are there any other comments along that line?

Senator Macnaughton: I wonder if Mr. Gibson wishes to say anything at this stage, Mr. Chairman.

Mr. F. E. Gibson, Q.C., Chief Legislative Counsel, Department of Justice: Mr. Chairman, it is a delight to appear before a Senate committee and really have very little to add to what my colleagues have said. That is not normally the case when I have an opportunity to appear before a committee of the Senate. The issues which appear to concern the committee are primarily those related to the policy of the proposal being considered rather than the draftsmanship.

I would be happy to answer questions in the area of my particular responsibility. However, I fell that Mr. Strayer's presentation has effectively covered any point that I might otherwise have wished to speak to.

Senator Laird: I should like to question the members of the Canadian Bar Association on the practical aspects of this.

Senator Connolly (Ottawa West): Perhaps we could move on to the Canadian Bar Association at this point, Mr. Chairman, and have Mr. Strayer and his associates stand by.

The Acting Chairman: If it is agreeable, I will now call on the members of the Canadian Bar Association.

Mr. David E. Osborn, Executive Director, Canadian Bar Association: Mr. Chairman, honourable senators, we are very pleased to appear before you today on a matter which the Canadian Bar Association views with some concern. The constitution of our association does not permit pronouncements by the association on questions of policy or public interest unless those positions have been adopted by a majority of our members in general meeting assembled. We have not so met in order to consider Bill C-20. Nevertheless, when certain provisions of that bill came to our attention we deemed it appropriate to request an appearance before you to make representations to you on behalf of the association.

We three appear before you today at the direction of the president, Mr. Dorfman, and other members of the executive committee, because of the concern to which I have just made reference. The first spokesman for the association will be Mr. C. Stephen Cheasley, of the Montreal firm of Martineau, Walker, a firm which I believe is very familiar to some of you.

Senator Connolly (Ottawa West): Yes, we know it.

Mr. Osborn: Mr. Cheasley is the chairman of our National Section on Real Property. He has served for a number of years at both the Quebec level and the national level in that Real Property section.

Our second witness is Mr. Donald Greenbaum, of the firm of Moses, Spring and Greenbaum, in Toronto. Mr. Greenbaum formed a Special Committee on Immigration a few years ago on behalf of the Canadian Bar Association. He subsequently chaired that committee and organized the representations which our association made to the Task Force on Immigration. He appears today, not to address himself to the narrow immigration and citizenship aspects *per se,* but to address himself to some more fundamental concerns, which we have heard expressed by honourable senators this morning.

Although I presume we will jump back and forth, depending on the questioning, Mr. Cheasley will direct most of his remarks to subclause (2) of clause 33, and the implications and ramifications that that has for some of the existing real property concerns. Mr. Greenbaum will address himself primarily to the criminal law aspects that flow from subclauses (4) and (5).

With that introduction, I will ask Mr. Cheasley to begin. The substance of his remarks is contained in a document which I believe has just been circulated to you.

Senator Macnaughton: Mr. Chairman, may I record the fact that Mr. Cheasley is a member of our law firm in Montreal? I wish that fact to be recorded. Of course, I have no knowledge of what he is going to say but I just wish to declare my interest.

Senator Laird: We won't hold that against you!

The Acting Chairman: No conflict of interest.

Mr. C. Stephen Cheasley, Chairman, National Section on Real Property, Canadian Bar Association: Mr. Chairman, honourable senators, first of all I would like to second the thanks to you for inviting us to appear before you to give our comments on this legislation. Also, as a practitioner I am delighted to be able to have an opportunity to be involved in legislation prior to its being sent to my desk by the C.C.H. subscription service telling us that that is the law and we will have to live with it.

I have read your proceedings of May 13 and 18, and I understand that you have adopted clause 33 subclause (1) and left standing a few of the other subclauses, in particular subclause (2). I will deal with subclause (2), and subclause (3) incidentally as it affects it. Mr. Greenbaum will deal with subclauses (4) and (5). Subclause (6)(e) in particular also affects subclause (2).

Just let me take subclause (2) apart for a moment. What I understand this clause to mean is that the lieutenant-governors of the provinces are being delegated power by the federal government, which power is basically threefold: first to prohibit, secondly to annul and thirdly to restrict two things, namely, the taking or the acquisition, directly or indirectly, or the succession to, any interest in real property by persons or corporations that are not Canadian citizens, or by corporations that someone thinks, as an opinion, is controlled or effectively controlled by persons who are not Canadian citizens. Subclause (3) goes with that, and the testimony we have heard has cleared my thinking on this a little. What is intended is that the provinces may make regulations to give effect to that enabling provision in subclause (2).

I am not going to talk about the delegation right now; that will come up later on. I should like to talk about what is being given to the provinces to do. First is the prohibition against the taking or acquisition, directly or indirectly, of real property by a non-Canadian citizen. The question of prohibition in the law of real estate exists, to my knowledge, only in the Civil Code of the Province of Quebec to prohibit alienation. That is the reverse of what is being contemplated here. What is being contemplated under subclause (2) is to prohibit acquisition.

If I may back up for a moment, in this prohibition to alienate contained in the Province of Quebec statute, this can only be contained in very specific documents; it must be contained in a will or in a gift *inter vivos*. Title must be registered against the property, so that there is proper publicity of the incapacity of the person to sell the property. This is all very logical, and you can work with this, because you know if you are going to buy a piece of property that you can look at its title and it says right in the title, "Sorry, he can't sell."

What we are contemplating here is creating another class of persons who will not be able to acquire. I guess we are going to put signs around their necks saying they cannot acquire, so that when you go to sell your house you will know that the person has an incapacity to acquire real property.

If we are to go ahead with this, there have to be some means of giving notice of persons, corporations or associations who do not have the right to acquire real property, or alternatively we should create an authority which will give the necessary approval, which approval can be registered against the title to the real property with the deed of acquisition. It should also provide that once that approval is given it cannot be revoked. A problem that title examiners are having with the FIRA provisions right now is that if you do get approval to go ahead with the transaction and it includes the purchase of property, if you do not register your order in council approving this as part of the document transmitting the title, 10 or 20 years from now a title examiner will not know that that title was approved by the Governor in Council, so he would reject the title.

Senator Connolly (Ottawa West): If I could interject for just a moment, I have two points I would like to raise. First of all, would that not be a matter of public law at the time and, therefore, presumed to be within the knowledge of the person who was searching the title or acting for the purchaser? Secondly, could not the question of the right to own, the right to acquire, be cleared up by an affidavit attached to the deed of transfer saying—in the case of a land transfer in P.E.I., after the law has been changed—"I am a Canadian citizen. I live in Nova Scotia"—or in New Brunswick, or Ontario, whatever the case may be—"and I am not an alien."? Would that not have the practical effect of clearing the title, as far as acquisition is concerned?

Mr. Cheasley: Yes. This is why I recommended that to proceed with the concept of prohibition you have also to put in the machinery to provide that there is certainty within the titlement, that the person has not violated that prohibition. It could be done that way, by affidavit. With the FIRA, what we do is take the order in council which is passed and attach it to the deed and register it against the title to the property. From then on, everyone knows that was approved. It is a question of the publicity of it.

Senator Connolly (Ottawa West): That was the law at the time.

Mr. Cheasley: The other thing about prohibition, so far as I understand the law, is none of the provinces have prohibited the acquisition of property by non-Canadian citizens. The Province of Ontario has put on a tax. It may cost you a little more. The Province of Quebec is now proposing a tax for certain types of acquisitions, such as land for speculation. In P.E.I., as I read the text of their law, it does not prohibit a foreigner from purchasing property in their province. They merely restrict the amount he may purchase.

Restrictions of that type exist, for example, in the province of Quebec where non-profit organizations, churches and so on do not pay land taxes and are restricted to ten acres of land in their holdings so that they will not buy up the whole of the province and eliminate the taxation base without the consent of the minister.

Therefore, that kind of restriction is not unusual. No one is prohibited. This is what is new about this clause, there is a prohibition coming in. We are going to say that you can prohibit a non-Canadian citizen from buying property. That is new. That is a question of policy for the government to make. I am not really querying the policy.

Senator Connolly (Ottawa West): I am going to nit-pick for a moment. In the case of the P.E.I. law—let us say, for the sake of argument, I do not know what the restriction is—a foreigner or non-resident is prohibited from owning more than two acres of land. So far as anything more than two acres of land is concerned, there is a prohibition. Is that not right?

Mr. Cheasley: That is correct.

Senator Connolly (Ottawa West): Therefore, there is, indirectly, prohibition when there is a restriction.

Mr. Chealsey: That is correct.

The second right that has been delegated is the right to annul the taking or acquisition of real property. In reading your proceedings, I saw that you had quite properly raised the whole question of annulling and the question of the retroactive effect of annulment. For a title examiner, this would be the severest problem we would have to deal with. You come to me and say, "Please examine the title on my property." I do so and I give you an opinion saying, "You are the owner of this property by good and marketable title." Tomorrow I find out that the government has passed some regulation which you violated and they now go back and annul your acquisition.

I cannot stress enough how difficult that is to deal with. It makes lending money almost impossible. Lenders do not like to hear that the title to the property, which they are taking as security, is going to be subject to annulment retroactively.

I have recommended here that we just eliminate the retroactive effect of annulment, eliminate the right of the provinces to annul titles. I do not know how that could possibly work in the day-to-day commercial transactions. As a person who is giving opinions every day to people who are lending millions of dollars of money secured by real property, I know what the reaction will be. Therefore, I stress again, this should be eliminated.

The next right which has been given to the province is the right to restrict the taking of acquisition.

Senator Connolly (Ottawa West): Before you go on to the next point—I do not want to be the devil's advocate

here—you say that the retroactive provisions of subclause (2) are wrong. Perhaps you might spend a little more time, for example, on the question of successions.

Mr. Cheasley: I was going to come to that, senator, later.

Senator Connolly (Ottawa West): All right; that is fine.

Mr. Cheasley: I am dealing with the three rights given. I will come back to that question.

With respect to the right to restrict the taking or acquisition, I do not really believe this adds anything to the provinces. They are doing it now. Again, I just ask for some procedure whereby proof of compliance with the restrictions can be registered against a title so a title examiner ten years from now will know those restrictions were meant and will not reject the title.

Having given those three rights to the provinces, they apply to two transactions, the "taking" or "acquisition." I find this a vague expression. I say it should be clearly stated in the text what type of transactions are to be affected. For instance, does it apply to leases such as ground leases or emphyteusis leases? In the province of Quebec, those kinds of leases are, in effect, another method of granting title. The emphyteusis lease in the province of Quebec is stated to be a transmission of property for a period of time. Normally it is about a 60-year period. I do not know whether that would be a taking or acquisition, but emphyteusis leases are a regularly used financing vehicle in the province of Quebec. Most of downtown Montreal is by way of emphyteusis lease. I do not know if that is a taking or acquisition because the title to the property will revert back to the owner of the property at the expiry of the lease.

Senator Macnaughton: Perhaps you should explain what an emphyteusis lease is.

Mr. Cheasley: The emphyteusis lease is a unique act, at least, in the province of Quebec. It actually had its origin in the Roman law, where the owners of the near sterile land around Rome wanted to improve the value of it and, therefore, they created an instrument whereby they would lease this land for a period of not less than 9 years but not more than 99 years with an obligation on the part of the lessee to build a structure on the property. That is an absolute essential to that kind of a lease. The lessee is obliged to construct a building and at the end of the term of the lease, the land and the building revert to the owner of the land and he, therefore, had a mechanism for the improvement of his land.

The ground lease, in the common law jurisdiction, is to the same effect.

Mr. R. L. du Plessis, Q.C., Law Clerk and Parliamentary Counsel: Would you say a person who has an emphyteutic lease has an interest in the land over which that emphyteutic lease applies?

Mr. Cheasley: Yes. Our law says it is more than that; he acts as owner.

Mr. du Plessis: If he has an interest, would you not think that the provision here would cover that interest? I refer to the words, "the taking or acquisition . . . .of . . . any interest in real property"? Do you not feel that these words would actually cover that situation?

You were emphasizing the words "taking" or "acquisition" but it seems to me you have to consider the object of the verb "to take" or "to acquire". In this case, the person who has the emphyteutic lease would be acquiring an interest that would last, as you say, from 9 to 99 years.

Mr. Cheasley: I can answer that very simply. The emphyteusis lease is considered as a conveyance, not as a lease of an interest. This is the subject of a lot of problems, with practitioners, because normally a lease is a right in a property. The emphyteusis lease has that unique feature, whereby it is a conveyance of the property just as if you would sell it but it reverts back at the end of the term of the lease. Therefore, looking at the word "taking" or "acquisition", it is not clear to me whether that would include an emphyteusis lease.

I will come back to the question of those words "any interest in real property" in a minute.

Mr. du Plessis: In other words, what I am suggesting is that the clause refers to emphyteutic lease the taking or the acquiring of any interest in real property, and surely an emphyteutic lease is an interest in real property.

Mr. Cheasley: I understand what you are saying. I am not sure what the intent of the taking or acquisition is though. Is it meant to control, let us say, long-term taking of real property? Because you may have a temporary control of the real property being passed to a non-Canadian citizen, but the land itself would be owned. For instance, a good example of this is the Canadian pension plans which have adopted, as a policy to hedge against inflation, the purchase of real property, and then to convey it by emphyteusis lease to a developer who will be obligated to put up the building, and then the building and the land revert back to the institution at the end of, let us say, a 60-year period. So that the Canadian institution is controlling that whole piece of property, although temporarily it may have gone to somebody like Trizec, which up to a little while ago would have been considered a company controlled by non-Canadians, if you follow my reasoning.

Mr. Du Plessis: Yes.

Mr. Cheasley: If the purpose of the act is to keep the land in Canadian hands, then "taking" or "acquisition" may have to be more specific and exclude "leasing".

Mr. du Plessis: The length of time here would not matter because of the word "any". Any interest, long-term of short-term, would be covered by both those words.

Mr. Cheasley: I am not sure I totally agree with that, but I will come back to the words "any interest".

Senator Connolly (Ottawa West): You both have a point.

Mr. Cheasley: The other part of this, which has already been alluded to by the chairman, is that it is not clear whether the taking or the acquisition will apply to a foreclosure by a mortgage lender which is not a corporation "effectively controlled" by Canadian citizens, or whether it applies to the purchase of shares of a company which holds title to real property. The foreclosure is certainly a taking of real property, and if Metropolitan Life forecloses on one of its million-dollar loans it will be upset if it finds it has just been prohibited from doing so.

Senator Connolly (Ottawa West): We want to get an answer on that specific point from the people in the department, Mr. Chairman.

Mr. Cheasley: Certainly, the mortgage lenders will have a lot of difficulty with that particular provision.

I would like to deal now with the words "or the succession to". I read again your transcript, and I think it was Senator Laird who said he was married to an American. You are going to have a lot of trouble when it comes to your succession. I thought about this for quite a while. This provision may lead to serious title problems upon the death of a Canadian citizen who leaves his real property to a non-Canadian citizen. And I say that it is probably best left out of the text of the subsection since the new owner by succession—in this case, your wife—would be able to sell only to a Canadian citizen when she wishes to dispose of same.

Senator Connolly (Ottawa West): Would you repeat that, please?

Mr. Cheasley: Using Senator Laird as an example, if he passes on and leaves everything, including his house, to his wife, under this provision it could prohibit the sueccession of that house to his wife. I am saying, why not forget the succession part of it totally. When Mrs. Laird goes to sell the house, as she will undoubtedly do to clear up the estate, she will then the obliged to sell to a Canadian citizen pursuant to this act anyway. So you finally pick up the house and get it back into the hands of Canadian citizens, if that is the intent of this. It is the same if I leave it to my cousins in Delaware: they are not going to move up here; they will eventually sell it. So you will finally pick it up when it gets transmitted by the succession.

Senator Connolly (Ottawa West): That, again, Mr. Chairman, is a point for the department to talk to us about.

Mr. Cheasley: Successions are so difficult that most title examiners will tell you that most title defects you find are in wills and in the transmission of property pursuant to a death, because people get all confused and so on. I well recall one title I looked at where a woman declared she was an owner when she was an emphyteutic lessee. This was in a downtown area of a large city in Canada. In fact, the people who thought they were owners were not; they were emphyteutic lessees and they only had three years left on their lease and then the property would be going back, and so we rejected that title. It is enough of a problem upon a succession that we could just delete the section. You are going to pick it up anyway.

Senator Connolly (Ottawa West): Would what you say about successions apply also to trusts *inter vivos*?

Mr. Cheasley: Yes. I am not used to trusts *inter vivos*. We do not have them in my province.

Mr. Donald Greenbaum, Chairman, Immigration Committee, Canadian Bar Association: I think the principle would be applicable, too.

Mr. Cheasley: I think it was the chairman who said that land does not leave the country. It does not make much difference when you pick it up and get it back into the hands of Canadians. I would say that it would be best just to avoid all succession problems and just go around them.

The next section is "any interest in real property." I come back now to that discussion on the phrase. There is a distinction to be made between a real right in real property and a personal right in real property. I say that an example of the latter—that is, a personal right in real property—is a lease of an apartment in a building or an offer to purchase real property. Now, the personal rights to real property are not real rights, as is the right of ownership, but are rights personal to the individuals and are generally not registered against the title to the real property, although such rights can be transmitted.

Senator Connolly (Ottawa West): Such as?

Mr. Cheasley: If you offer to sell me your house and we sign a document, I now have a personal right to force you to sell me your property. But then Senator Macnaughton would come to me and ask me to sell him the right that I have to buy your house for $50,000 and he will give me $60,000. So I would sell and transmit the right to Senator Macnaughton.

Senator Macnaughton: You are assuming a hell of a lot!

Senator Forsey: Without prejudice.

Mr. Cheasley: It is of interest to note that there have been certain developments with real property where foreigners are given the right to become an owner rather than the right of ownership itself. That gets transmitted from one, say, German citizen who has this right to become owner of ten acres in a certain area. He will sell that to another German citizen. It is never registered on title. It is the right to become the owner. When we say "any interest in real property," again I say, is that any real interest or is that any personal interest in real property?

Mr. du Plessis: Since the words "real or personal" are not there and since it says "any interest", then it would include any interest whatsoever.

Mr. Cheasley: I do not know how you would police the passing back and forth of an offer to purchase between Germans in Germany, if that is what you are intending to do.

To continue, this also gives us a problem with the lender secured by a mortgage on real property. His mortgage certainly gives him an interest in the real property and this subsection will permit a province to prohibit mortgage lending by foreign corporations, even though this is not prohibited under the Foreign Investment Review Act, and I say, "See section 3(6)(d) of the Foreign Investment Review Act."

If I may just digress here, when FIRA came in, they exempted from the provisions of this the loans made by the mortgage lenders. Now we find ourselves in a situation where one province can say to Metropolitan Life, "You are prohibited from making loans in this province," but the company would be welcomed somewhere else.

Before somebody says to me, "But look at (6) (e) of the exemptions," I should say that section 2 is subject to section 6, where they have exempted from that section 2 an investment which has been considered and allowed by the Governor-in-Council under the Foreign Investment Review Act. But a mortgage loan is not one that you must go and ask to be permitted to make. It is exempt. You do not have to go there. I think this may just have been a drafting mistake, and that they wanted to exclude any investment which either was exempt under the Foreign Investment Review Act or had been presented and allowed. That would have to be tied in, and I suggest that later on clause 16 be amended to provide that.

Senator Forsey: Mr. Chairman, may I interrupt just to ask Mr. Cheasley if the point he has been making about the

foreign owned corporation is the same one that Senator van Roggen was referring to in that draft British Columbia legislation?

Mr. Cheasley: Essentially I think that was the same problem that he had with that.

Senator Forsey: This is what I understood. I wanted to have that made clear.

Mr. Cheasley: The foreign lenders are a very touchy group of people, you know. You have to treat them really carefully. They take your money on your insurance policies and then they reinvest it in our country, so we have to make sure that we do not scare them away with the texts of our law.

The Acting Chairman: As matter of information, for my own purposes, when will we come back to that, to clarify it, before we put the bill in?

Senator Forsey: Is there not a misprint at the end of that section of your brief, Mr. Cheasley, where you refer to "section 3(6)(d)"?

Mr. Cheasley: That is of the Foreign Investment Review Act.

Senator Forsey: Not of this thing.

Mr. Cheasley: No, not of this.

Senator Connolly (Ottawa West): Mr. Cheasley, I gather that what you are saying to us is this, that under 6(e), because of the provisions of the Foreign Investment Review Act, a foreign lender, on the security of a mortgage on real estate could foreclose, and having foreclosed, would then be a foreing owner of real estate. There is an inconsistency between that status and the requirements of clause 33 of this bill.

Mr. Cheasley: That is correct. Simply stated, the Foreign Investment Review Act welcomes the foreign lender to make loans and to foreclose, and clause 33 tells him that once he has foreclosed and taken back the property he is either going to be prohibited from doing it or he is going to have the transaction annulled, or there will be some other restriction placed on his use of the property. There is an inconsistency between the two acts. I think this results mainly from the fact that they did not provide in subclause 6(e) that if a transaction is not reviewable then it would be exempt also, as well as one that had been reviewed and allowed.

My last comment on section 2 is with regard to the question of who the people are that are going to be affected by it. I have raised here the question of what happens if a non-Canadian becomes a Canadian citizen while holding title to real property. In other words, we may have a situation where there is a sale to a non-canadian citizen but who is in the throes of getting his Canadian citizenship and eventually does become a citizen. Is the period during which he held the property sufficient to permit the province to disallow or annul his title? Or if a Canadian citizen loses his citizenship during such a period, which is the reverse problem, or if a corporation which is effectively controlled by Canadians when title to real property is acquired becomes effectively controlled by non-Canadians—a good example is the Trizec Corporation, which is effectively controlled by non-Canadians but is now becoming a Canadian corporation—does the same thing apply? There was a period when, if this act had been in effect, the provinces could have been annulling all these transactions across Canada.

I say that this subclause should state whether or not it is the status of the person or corporation at the time of acquisition which governs his or its capacity to hold the title to the real property. It should also be made clear in the text that a subsequent change in the status of the purchaser will not give rise to an annulment of his title retroactively. This again is just another plea to you not to throw in retroactivity of the title, because this gives title examiners a terrible time.

Those are my comments on subclause (2), and I have commented on subclause (6)(e), which is also referred to, and subclauses (4) and (5), the penal provisions.

Without consultation with my confrere—and this is what happens when one of you lives in Toronto and the other in Montreal, and you only have a short time to do something—I recommended that subclauses (4) and (5) be deleted in their entirety, and having said that, I have suggested—because I deal with real property—that they should be replaced with provisions such as they have in the Foreign Investment Review Act, under which, if there is a violation, the real property can be forced into a sheriff's sale and liquidated. It keeps most people honest to know that their property can be brought up for sale by the sheriff and liquidated.

Senator Connolly (Ottawa West): Have we the authority to pass such a provision?

Mr. Cheasley: We have done it in the Foreign Investment Review Act, in effect. It had the same provisions, but had the other benefit affecting a person who made an honest error. For example, if an American citizen bought a piece of real property, and it were prohibited, and annulled, we could say, "Yes, you have violated our act, and we are going to put your property into a sheriff's sale." He could rush out and get a Canadian citizen to go to the sale and bid the property up sufficiently to obtain the price he had paid, so that he gets his money back out of the transaction.

As I say, this recommendation was made without consultation with my confrere, who will speak next on the matter, but I wanted to explain why it is in my comments.

There is just one other point. I am not the constitutional law chairman, but I do raise with you the question of the constitutionality of delegation to the provinces. I know the delegation is not to the provincial legislature, but to the lieutenant governor in council, and that distinguishes it, perhaps, from the Nova Scotia case of 1950; but it seems to me that clause 33 is certainly legislative in its nature, rather than administrative, and that its constitutionality may be called into question by lawyers later on. However, I am not going to take the matter any further than that.

Mr. Greenbaum: Mr. Chairman and honourable senators, if I might on that point just raise this matter with you, Dr. Strayhorn, in his brief to you, went through the procedure of delegation. I would like to add one further point in this connection, which I do not think is mentioned, and which I think should be mentioned and considered by you.

I take the position also that this is a delegation which involves, basically, a legislative tint. It is true that the delegation is not, for example, specifically to the legisla-

ture of Ontario, but to the lieutenant governor in council. The federal Interpretation Act defines the lieutenant governor in council as "acting by and with the advice of, or by and with the advice and consent of, or in conjunction with, the executive council of such province."

The conventions of the Constitution are well known, and judges may take judicial notice of these conventions. It is a convention of the Constitution that the executive council of the province must command the confidence of the legislature of the province and must therefore be responsible to the legislature for the advice which it renders to the sovereign's representative.

It follows, then, that when legislative authority is delegated to a lieutenant governor in council, the effect is indirectly to make a delegation to the provincial legislature which is the very delegation which cannot take place in view of the case law.

I wonder if you follow what I am saying. This is really indirectly passing the delegation to the lieutenant governor in council, who must, in effect, be responsible to the legislature of the province, and is, in effect, passing the delegation of federal matters, which should not take place.

Senator Connolly (Ottawa West): You may have a point, but it seems to me that the delegate in this case is very specifically named—that is to say, the lieutenant governor in council—and, regardless of the fact that the advisers of the lieutenant governor, namely, the provincial council, have to have the confidence of the legislature, still the act is to be exercised by the lieutenant governor with the consent of his council, and the legislature is not called upon to do anything in this specific case that is referred to in clause 33.

Mr. Greenbaum: I agree, but the point I am making is the question of inference, that the lieutenant governor in council would have to, as it were, demand a conference and would have to seek the advice of the legislature, and in effect it could present problems.

Senator Connolly (Ottawa West): I say this subject to correction, but I do not think the lieutenant governor in council in this case has to seek the guidance or approval of the legislature. I think it acts on its own authority and the authority is confered here. That is the way I read it.

Senator Forsey: I agree.

Senator Connolly (Ottawa West): It may be a point worth raising. I wonder whether it goes beyond the lieutenant governor in council in any respect. Perhaps the people from the Department of Justice would have a view on that point. It seems to me that this is a direct delegation to the lieutenant governor. Let us take a practical case. They decide to make a regulation about some aspect of land use, and the legislature is not sitting, but whether it is or not, the order in council is drawn by the officials of the government and is presented to the provincial cabinet by the appropriate minister. They agree on it and they do it. Now, in fact they have, let us say, a majority in the legislature. Then nothing more is required. This is a valid exercise of the authority, I would think, without any reference to the legislature. I am looking at it from a practical point of view.

Senator Laird: But isn't the effect of that simply to make it legislation which is less desirable, particularly if there are constitutional problems that are likely to arise out of it?

Mr. Osborn: Yes.

Senator Laird: And following from that, your recommendation as to how to rectify the situation does not seem to me to be very helpful either, because you propose to change subclause (2) and then to whittle it down by another subclause (6) returning it to the Foreign Investment Review Agency. Does not that also simply multiply the complexity of the whole problem? I am surprised you did not recommend wiping out the thing completely, but I suppose you could not do that without a meeting of your entire association.

Mr. Greenbaum: What happened is that Mr. Cheasley prepared his brief and made what he considered a proposal about subclause 2, but this is the first I have seen about that.

Senator Laird: You are in the same boat as I am.

Mr. Greenbaum: Yes, and I was going to follow that point I have just made with this, that it would appear that possibly subclause (2) should be deleted. This is my own feeling. You could then make a provision under clause 33(1) that it would be subject to provincial legislation in respect of land enacted pursuant to section 92(13) of the British North America Act.

Senator Laird: This is a good solution.

Mr. Greenbaum: You are basically allowing the province to do what it wants to do without having subclause 2.

Senator Laird: And without encouraging them to go any further than they have gone already. Let us look at our own province. You are from Ontario. Look at that business of slapping that extra tax on the purchase of real property by non-residents. I do not like it.

Mr. Cheasley: I think that the problem, as it has been explained by the representatives of the Department of Justice, is that it comes out of that famous judgment by Bora Lasking concerning the Prince Edward Island case. I think his words were that what they had done was perfectly legal within the provincial jurisdiction but then he went on to make the following statement:

> In the present case, the residency requirement affecting both aliens and citizens, alike and related to a competent provincial object, namely, the holding of land in the Province and limitations on the size of the holdings (relating as it does to a limited resource), can in no way be regarded as a sterilization of the general capacity of an alien or citizen who is a non-resident, especially when there is no attempt to seal off provincial borders against entry.

It is that "especially" part that I think is bothering the first ministers and the Department of Justice, and they are now trying to get around it by delegating to the provinces the right to seal off the borders to non-Canadian citizens but not to Canadian citizens. In other words, it is all right to block an American, but don't block a Canadian.

Senator Laird: It reminds me, Mr. Chairman, of the situation regarding off-track betting. The Province of Ontario has been pushing us to amend the Criminal Code to give them the option, which they would then exercise, of going into off-track betting. Some of us who are opposed to that naturally will oppose any change in the legislation or the Criminal Code to encourage that, and that is why I oppose this clause 33, and particularly subclause (2).

Mr. Cheasley: The problem is the old one of using an elephant gun to kill a mosquito. As I was saying to Senator Macnaughton, perhaps the date today is interesting because it is only two days before the anniversary of that famous date, June 10, 1215, when the barons seized London and forced King John to come to Rynnymede and submit to the rule of law because of the unlawful taxes and so forth. I thought to myself, "Here we are going before the Senate to try again to seize London." I do not know what the Department of Justice has in the way of a solution.

Senator Connolly (Ottawa West): Mr. Greenbaum, Senator Laird endorsed a proposal you made a few moments ago, which he felt to be constructive. I am more concerned with respect to the problem of the reporter. Would you express again, at the expense of repetition, just what that proposal is?

Mr. Greenbaum: Actually this is a proposal that was brought forth by the chairman of the wills and trusts section, who could not attend here today. He asked me to deliver this proposal to the Senate committee. He is saying basically, as I read his notes to me, that he feels that the delegation is not constitutional.

Senator Connolly (Ottawa West): You do not have to go through the point that we raised before.

Mr. Greenbaum: I went through that, that with respect to the effect it is basically the influence of the legislature.

Senator Connolly (Ottawa West): It is a delegation to the legislature, in effect.

Mr. Greenbaum: That is what he alludes to. He then says, basically, that to avoid the constitutional problem, in effect, clause 33(2) would be deleted and a proviso included in clause 33(1) to the effect that it would be subject to provincial legislation in respect of land enacted pursuant to section 92(13) of the British North America Act.

Senator Connolly (Ottawa West): It would be subject to what?

Mr. Greenbaum: Provincial legislation in respect of land enacted pursuant to section 92(13)—which is the power given to the provinces to enact legislation dealing with property— of the British North America Act.

Senator Connolly (Ottawa West): That is a wider delegation. In other words, is the implication there that the province be given authority to deal with land in which an alien might have an interest? Is the federal authority turning over to the province in respect of land its authority to legislate in respect of aliens?

Mr. Greenbaum: Yes; if you refer to clause 33, with the proviso that would be the effect.

Mr. Osborn: I do not think that was the intention of the person who drafted that, with respect, senator. He is saying that we are going to some circuitous lengths here and encountering some problems of draftsmanship with respect to the delegation of responsibility. We come before you to tell you what you already know, that there is a constitutional problem which will later be raised before the courts. The Supreme Court has already told us, through the Prince Edward Island case, that they are going to give the provinces some authority, or they are going to uphold certain kinds of legislation, anyway. So why fool around with it; why go to these very difficult lengths?

Senator Connolly (Ottawa West): Let me be the devil's advocate, then. Why fool around with it? It seems to me, from a draft of this legislation, that the federal authority is saying that it will allow the provinces to fool around with this. It says it accepts the decision of the Supreme Court of Canada in the P.E.I. case, but goes a little further and gives the province another option. That is to tell them that they will not be restricted to a prohibition against holding an interest in land to a non-resident only, but will be allowed a further opportunity perhaps to modify the first option which they already exercise validly and to restrict ownership of land in respect of aliens.

Senator Laird: I would not interpret it that way. Mind you, I would have to read section 92(13) of the B.N.A. Act.

Senator Connolly (Ottawa West): That is property and civil rights.

Senator Laird: To be honest, I was about to say to you, Senator Connolly, that really the amendment proposed to clause 33(1) is what is known to lawyers as *ex abundanti cautela*. In other words, they have got it, anyhow.

Senator Connolly (Ottawa West): Yes, there is no doubt that they have it. I think that the federal authority in this case is giving the province something to do in a specific way that heretofore only the federal authority could do, which is legislate with respect to aliens.

Senator Laird: No, I would not interpret it so. I say that the proposal to eliminate clause 33(2) is fine and takes away the problem which worries me. However, then simply to make it 100 per cent sure, clause 33(1) is amended to provide that this is not meant to interfere with the jurisdiction granted by the British North America Act to the provinces.

Senator Connolly (Ottawa West): Perhaps we should not be arguing back and forth here, but there is one point in your statement upon which I must comment. At the present time the federal authority has the juridistion to legislate with respect to aliens and the provinces have not.

Senator Laird: That is right.

Senator Connolly (Ottawa West): It seems to me that the draftsmanship of clause 33 gives the provinces, subject to the conditions outlines, the right to legislate with respect to aliens.

Senator Laird: Yes, which I do not like.

Senator Connolly (Ottawa West): Perhaps you do not like it, but in my opinion there is a liberalization in this with respect to the rights which the provinces own.

Senator Laird: All I can say is that I would be content to have our Law Clerk and Parliamentary Counsel, Mr. du Plessis, consider the respective clauses and determine, from his point of view at least, their effect. I want to say simply that I would eliminate any encouragement to the provinces to legislate with regard to aliens holding real property. They cannot do it if we do not pass clause 33(2).

Senator Connolly (Ottawa West): Then let us take the practical case of an alien who is not a resident of the province. Under the provincial law in P.E.I. now that alien would not be allowed to own land.

Senator Laird: And there is nothing we can do about that either, here in Ottawa, other than by use of the general overriding powers.

Senator Connolly (Ottawa West): The alien could be a landed immigrant and also precluded from owning land in the province. This clause would probably allow the province to deal with such a situation without dealing with all non-residents.

Senator Laird: I would say that the provinces have a very broad right now, but the one thing they cannot do is touch the matter of citizenship, unless we pass clause 32(2). Let us not encourage them by giving them that right. In simple terms, that is my argument.

The Acting Chairman: The committee will meet again at 2 o'clock this afternoon in room 356-S.

The committee adjourned.

The committee resumed at 2.15 p.m.

The Acting Chairman: The sitting is resumed.

Senator Connolly (Ottawa West): Mr. Chairman, I wonder if I might make a suggestion which might suit the convenience of the committee? The gentlemen from the Canadian Bar Association did the committee a great service by studying the problem arising out of clause 33 of the bill and giving us the benefit of their opinions. We are most grateful to them for what they have done.

Earlier we had officials from the Department of Justice and from the Department of the Secretary of State, and they are still here. I noted four points raised by the representatives of the Canadian Bar Association, which by no means are exclusive of other points which other members of the committee might raise.

I would like to suggest at this point that perhaps the officials from the Department of Justice would comment for our benefit on the four points I will mention. Because there is a problem of policy here, and no committee will press an official to discuss policy, perhaps our best course, after hearing from Justice on this point—and on other points that might be raised—would be to adjourn at the call of the chairman, if he thinks fit, to hear the minister with reference to the matters we have been discussing today.

I do not know whether that commends itself to the other members of the committee, or to you, Mr. Chairman, but I put it to you for what it is worth.

The Acting Chairman: Senator Connolly, before we go on, are we finished with the representatives from the Canadian Bar Association?

Senator Macnaughton: I suppose the quickest way would be to ask them. At page 6 there seems to be a summary of your various points. Had you finished?

Mr. Cheasley: Mr. Chairman, we had prepared some recommendations. At the end of page 6 I had made some suggested text changes for clause 33(2) which delete the right to annul, for instance, the reference to succession, tied the acquisition or taking of property to a date so as to determine citizenship, and deleted the "in the opinion of the person who may be authorized by the lieutenant governor in council" to decide whether or not a corporation was effectively controlled by a Canadian citizen. That is the gist of clause 33(2).

As my confrere said, unfortunately because of the short notice we had the Canadian Bar Association could not get together on this, so it is basically my own suggestion, reflecting the comments I made earlier.

The other suggestion was that subclauses (4) and (5), the criminal sections, be deleted, and that they be replaced with the provisions that are found in the Foreign Investment Review Act with regard to the liquidation of property in the event of contravention; and subclauses 6(e) was to add that an investment which was not subject to the Foreign Investment Review Act could not be affected by regulations passed by the lieutenant governor in council.

Those were the three provisions. I do not know whether my confrere from Immigration has any other recommendations that he wanted to make, other than the one he made this morning.

Mr. Greenbaum: Concerning subclauses (4) and (5), it was indicated by my friend that he had prepared his recommendation without the benefit of discussion among the other committee members of the Canadian Bar Association. I would offer this alternative: If his recommendation is not accepted, then certainly it would appear from the discussion of the Senate committee so far, and from today's comments, that at least subclauses (4) and (5) should contain some wording which would encompass the principle of *mens rea*; that those two subclauses should not be considered as strict liability offences—whether you use the word "knowingly" or the words "without just cause" or "reasonable cause," something that will qualify those two subclauses and not leave them as strict liability offences.

Senator Belisle: In other words, Mr. Cheasley suggested that they should be dropped, and Mr. Greenbaum is suggesting that they should be amended.

Mr. Greenbaum: As an alternative. If that is not adopted there should be at least an element of *mens rea* present in the subclauses.

Senator Forsey: Before Mr. Greenbaum stands down, I would like to ask him if he feels perfectly confident that his suggested proviso for clause 33(1) would be free of any objections on constitutional grounds. It struck me, as a non-lawyer, that perhaps objections would be raised on constitutional grounds to the proposal that he was making in substitution for the delegation to the lieutenant governor in council.

Mr. Greenbaum: I am put in the position where, as I indicated to the committee, this recommendation did not stem from me. It came from the chairman of the wills and trusts section of the Canadian Bar Association. It was because he could not attend that he asked that I introduce it to you. I cannot, in my position, not being a constitutional law expert, tell you whether it would or would not be constitutional. He has studied it and has given his opinion that it would be constitutional.

Senator Connolly (Ottawa West): Perhaps Senator Forsey would care to explain the reason for his doubt.

Senator Forsey: The reason that I felt some doubt about it was because it looked to me as if the proposal that was given to us by Mr. Greenbaum from his colleague might be attacked on exactly the grounds on which he was attacking the existing 33(2), the delegation to the lieutenant governor in council, that this in effect would be a delegation of the powers of Parliament to the provincial legislature and might even be regarded as more than a delegation and more than a contravention of the Nova Scotia inter-delega-

tion case on this proposal. That probably sums it up. It might be regarded as another attempt to do indirectly what could not be done directly. It might be regarded as colourable legislation. But I proffer those doubts with humility and diffidence which becomes a non-member of the profession.

Senator Macnaughton: That is very modest of you, as I said last week. It seems to me that by this legislation the bill is trying to discriminate between citizens and non-citizens in the holding of land. Now I have a doubt. It is only a doubt. Is this in Canada's interest, such as controlling the ownership of land and prohibiting the ownership of land by non-citizens? I suppose really it is a matter of policy. Whether it is right or wrong, I do not know, but I would like to hear someone talk about it.

The Acting Chairman: Is it not true that some provinces have that restrictive legislation now, such as Prince Edward Island? I am not sure about Alberta.

Senator Yuzyk: Saskatchewan has.

Senator Macnaughton: To quote a famous citizen of the U.S.A., this is a major step forward. Prohibition in the provincial law, particularly in Prince Edward Island, is broader in that it includes non-residents of all kinds, whether they are alien or not. That is why this morning we used the words "liberalization" or "enlargement", or "relieving." It is relieving because it confers upon the provinces the right to restrict it to aliens instead of having the broader class of non-residents prohibited from holding land.

Senator Forsey: This distinction, Mr. Chairman, it seems to me, if I may venture another comment, between "prohibition" and "restriction," is not perhaps quite as important as Mr. Cheasley makes it seem, because if you have the right to restrict—and the right to restrict is not itself restrictive—it can go to 100 per cent restriction. Presumably, the restrictions that are embodied, for example, in Prince Edward Island legislation could perfectly well be modified by that province, whether by legislation or by regulation—I have not read the act; I do not know whether it permits delegation—could be modified or extended so as to provide for absolute prohibition. The power of the province surely extends to absolute prohibition.

Mr. Cheasley: Absolutely, and in fact it has been invoked in respect of many classes of people, such as those under the age of majority.

Senator Connolly (Ottawa West): Mr. Chairman, perhaps we can go on to consider the other suggestion I made.

Senator Macnaughton: I wonder, Mr. Chairman, if the officials from the Department of Justice would feel called upon to pontificate, if that is the word.

The Acting Chairman: Before calling on the departmental officials, are there any further questions of the present witnesses? If not, I will call upon the departmental officials.

We again have Mr. Strayer from the Department of Justice. In addition, we have Mrs. Reid from the Department of Justice, and Mr. Levy from the Department of the Secretary of State.

Mr. Strayer: Mr. Chairman, would you like me to make a few comments, or did you want me to respond to specific questions?

Senator Connolly (Ottawa West): Mr. Chairman, we are in your hands. I raised four points and there were two others that emerged later. We can deal with those, if that is the wish of the committee.

The Acting Chairman: I think it would be better first to deal with the points that were raised.

Senator Connolly (Ottawa West): To save time, perhaps I can review them. The first question raised this morning was the matter of the effect of a foreclosure by a foreign mortgagee.

Mr. Strayer: Mr. Chairman, may I preface my remarks by saying that a number of the points raised by the members of the Canadian Bar Association seemed to me to go to a rather different question, that being the type of regime the provinces are going to put in place as a result of this enabling clause. We cannot predict what type of regimes they may put in place.

I have not had an opportunity to look very closely at the brief of the Canadian Bar Association, and I am not sure that I followed all of the intricacies of property law as they were carefully laid out this morning.

I think the enabling clause is probably broad enough to enable the provinces to restrict the right of a foreign mortgagee to foreclose on the basis that their would be an acquisition at a different interest in real property through foreclosure.

Senator Connolly (Ottawa West): As I understood the objection raised by the representatives of the Canadian Bar Association, it was that an alien or an alien-controlled company, as a result of a foreclosure proceeding, might acquire a real interest in the land and, therefore, be in violation of the restrictions that the provincial law might impose.

Mr. Strayer: That, I suppose, would be one area where the power to annul the acquisition might be relevant. The provinces would have to devise some method of detecting these situations and exercising that power.

I do not intend to give the impression that these problems are by any means simple in solution. Different provinces, in looking at schemes for regulating non-residents, have run into these very problems and have had difficulties in devising schemes which would work well. I think laws that are in place, particularly in Saskatchewan, which perhaps is more comprehensive in nature with respect to non-residents, do have a system for dealing with that aspect.

We did not think we could elaborate rules for these situations in any federal statute, or that we ought to do so. What we were doing, really, was to enable the provinces to deal with aliens, presumably in some way similar to the manner in which they might deal with non-residents, and they will have to take into account these very real problems in devising those rules.

We have not attempted, obviously, to address ourselves to all of these questions in the enabling provision.

Senator Connolly (Ottawa West): I suppose this is a question of policy, first of all, as to whether it is desirable to have legislation which might affect existing rights, such as the existing right of a mortgagee to foreclose in the event of default, which is a right that normally is conferred by the law of every province. As a matter of policy,

the question is whether we are opening the door to defeat that right by saying that an alien mortgagee, whether it is a corporate entity or an individual, shall not have that right. That is a matter of policy, and I do not think we can press these witnesses on it.

Secondly, a further question for the provinces is whether it is desirable, as was suggested this morning, to discourage investment in land by foreigners, and I think this, too, is a matter for consideration. Again, I think it is a policy matter.

I think perhaps these are two points upon which we should not press either the officials of the department or the officials of Justice. I think it is a matter for the minister.

The question of succession and trusts *inter vivos* was also raised this morning. Perhaps, Mr. Strayer, you would be king enough to give us your reaction to what you heard from the Canadian Bar Association.

Mr. Strayer: On the question of removing the words "or the succession to", I am not sure this would have any significant effect on the result of the provision, because the earlier words "taking or acquisition, directly or indirectly," would remain. If you become the owner of property by means of a will, you take the property, you take title to it, you take it, you acquire it, you succeed to it.

Senator Connolly (Ottawa West): I think in each case part of the concern was the fact that there seems to be authority here to enact legislation which can have a retrospective effect, which can disaffect existing rights and therefore create an element of unfairness. This, too, is a question perhaps more of policy than of interpretation and draftsmanship, is it not?

Mr. Strayer: Yes. It is open to a province now, I dare say, to prohibit children from inheriting by will, or it is open to a province to outlaw trusts. It is certainly open to them to prevent non-resident beneficiaries from taking property under a will of a person resident in the province. The theoretical possibilities are always there. But It has been my observation that legislatures tend to be rather sensitive about this sort of thing, because the testators or potential intestates are residents who take exception to this kind of thing. I think the problem they would face in doing this under their present authority would equally face them, if I could venture an opinion, in doing it with respect to aliens and alien beneficiairies.

The Acting Chairman: How would this apply to, say, a religious group? I am thinking of the Hutterites in Southern Alberta. Does this kind of legislation affect them?

Senator Connolly (Ottawa West): Are they citizens?

The Acting Chairman: Yes.

Mr. Strayer: If they are citizens it does not affect their situation in any way. Whatever the province may do—and it is clear the province may do something about this, because the Supreme Court has said so—the province may impose certain limitations on them and their property holdings. This would neither increase nor decresase that power of the province.

Senator Bélisle: They may be resident, but in the meantime the authority could control the property from somewhere else, as it does in the case of the Anglican Church and the Catholic Church.

Mr. Strayer: Then the property is controlled by a foreign person or corporation?

Senator Bélisle: In many cases there is the authority, which is a diocese or a provincial boundary which includes two or three provinces, and they hold the title for the property.

Mr. Strayer: I am not sure how the Hutterites are organized in a corporate sense. I have a feeling they are organized on a purely provincial basis, but I could not be sure of that.

The Acting Chairman: That is right.

Senator Connolly (Ottawa West): I seem to be monopolizing the time of the committee, Mr. Chairman, but I was just going to finish these points, if that is satisfactory.

The Acting Chairman: Go ahead.

Senator Connolly (Ottawa West): This morning there was some discussion about the relevance of the Foreign Investment Review Act and its application. I do not want to use my language to describe the point raised by the representatives of the Canadian Bar Association. Perhaps you heard it and remember it well enough to be able to comment on it.

Mr. Strayer: Perhaps I could address myself to the particular proposal they make in their recommendations on the Foreign Investment Review Act. I may be missing a point here, but I find the proposed amendment to subclause(6)(e) rather mystifying. The proposal is not only that transactions with respect to land in the process of an investment already approved by the Governor in Council should be exempted from provincial control. That is what the clause now provides, that where cabinet has already approved an investment which involves acquisition of land—an investment clearly coming under the Foreign Investment Review Act—according to subclause (6)(e) as presently drafted, a province may not, by virtue of the authority given to it by this subclause, prevent that acquisition necessary to carry out the federally approved investment.

What the representatives of the Canadian Bar Association are saying is that we should also exempt from provincial control all those acquisitions not covered by the Foreign Investment Review Act. It seems to me that leaves three categories of acquisitions. First, there are acquisitions in connection with investments which are not in any way covered by the Foreign Investment Review Act—that is to say, acquisitions of property which are not part of a business, or acquisitions of a property connected with businesses under a certain level of worth or annual sales; they are not covered by the Foreign Investment Review Act; they would also be exempted by this proposal from any provincial control.

Secondly, their amendment like the present Bill would exempt from provincial control all those investments approved by the cabinet, so this would leave the provinces to control only those investments that are within the Foreign Investment Review Act and which cabinet has refused. The only power left to the provinces under their proposal would thus be to control investments that have already been refused by cabinet and are prohibited by the Foreign Investment Review Act. I am afraid the logic of it does not immediately leap to my mind. In other words, if their proposal were taken literally, we could just as well

forget all about clause 33 applying to provincial control of foreign ownership.

The point of having subclause (6)(e) in there, as I understand it, is to recognize that if under another federal law, the Foreign Investment Review Act, the Governor in Council has approved an investment, then Parliament has by that route approved that kind of investment, or enabled cabinet to approve that kind of investment. It seemed wrong by a second act, proposed section 33 of the new Citizenship Act, to empower the province to prevent the investment which has already been approved by the federal government under the Foreign Investment Review Act. The result of the proposal would be to avoid having two acts in effect conflicting with each other, one saying that there shall be an investment and the other saying that the province can prevent that investment. But that is as far as the proposal was intended to go. It was not intended to limit the discretion of the provinces with respect to investments not specifically authorized by cabinet under the Foreign Investment Review Act.

Senator Connolly (Ottawa West): It seems to me that there is a practical problem which could emerge here. I can envisage as ituation with respect to the province of Prince Edward Island, for example, in which an investment is approved by the Foreign Investment Review Agency, and it is good investment, but the province has on its statute books a law which says that a foreigner cannot own real estate beyond a certain amount or in excess of a certain value. That law remains there. How does the federal authority legislate to enlarge the right of the foreigner to do that when the right to pass that legislation is provincial?

Mr. Strayer: If I understand the point you are making correctly, senator, there are two possibilities: one would be the situation in which the province had a statute on its books which was independentaly valid within provincial jurisdiction—that is, for example, the law which the province of Prince Edward Island now has with respect to non-residents. In that situation, if cabinet approves a foreign investment or take-over in P.E.I. that would fly in the face of the provincial law, because the company taking over is not only foreign but is also non-resident, then the provincial law would still prevent the acquisition. That is the situation now. In other words, even where the federal cabinet says that it is permissible, the province may, by some means, prevent the acquisition if the province has rules such as with respect to non-residents. That is the existing situation.

Perhaps there are other ways in which provinces can also inhibit the take-over through changes in their zoning laws or by doing various other things which are fully within their authority.

Senator Connolly (Ottawa West): But in that case the provincial law would defeat the take-over, would defeat the investment, would it not, effectively?

Mr. Strayer: Yes, that is the present situation. There is a possibility of that.

Senator Forsey: Would there be no operation of dominion paramountcy there?

Mr. Strayer: My assumption, senator, is that there would not be, because the Foreign Investment Review Act does not purport to be an authorizing statute in effect positively authorizing and licensing that company to do business.

Senator Forsey: Merely permitting.

Mr. Strayer: It establishes a screening agency. They are saying, "As far as we are concerned, you can come into Canada and if you can do business here, fine." So at the moment we do not have any conflict because the federal law is simply enabling. But if we had the situation posited by our proposed amendment, there we would we are enabling the province to go one step further and to single out the foreign-owned company and prevent it from coming in. That is something which it cannot do now simply on the basis of its being foreign. But this provision, if it were adopted, would enable them to do that.

However, we are also saying, "We do not want to enable you to do something new that will fly in the face of another policy of Parliament which has been laid down in the Foreign Investment Review Act." That is the essential purpose of subclause (6)(e).

Senator Forsey: I thought the purpose of the proposed change, of the change proposed by the Canadian Bar Association, was to look after this business of foreign mortgages. I did not quite understand Dr. Strayer's explanation of the categories which would be open to the province to deal with. Perhaps I just got the thing completely wrong, but I thought it was to deal with the question of foreign mortgages.

Mr. Strayer: I was relying on the wording in the recommendations, and as I read it, unless I am missing something very badly, they propose to add to the exclusion from provincial regulatory power any investment not subject to the Foreign Investment Review Act. Virtually, that is every other conceivable investment, whether it has anything to do with the Foreign Investment Review Act or not.

Senator Forsey: That was intended, I thought, to cover their point about foreign mortages.

Mr. Strayer: I dare say it would do that all right.

Senator Forsey: But then you say it would cover too much.

Mr. Strayer: It would cover everything. The only thing the province would be allowed to do would be to doubly prevent an investment which the federal government had already prevented.

Senator Connolly (Ottawa West): I take it the opinion expressed by Mr. Strayer is that the Foreign Investment Review Act would not override the provisions of the provincial statute so that the provincial statute in the case of Prince Edward Island could effectively defeat the investment in this case, unless the province wanted to amend its statute or do somthing in that respect.

Mr. Strayer: Yes.

Senator Forsey: Subclause (6) is intended to prevent that kind of thing happening.

Mr. Strayer: Only to the extent that Prince Edward Island is using this new delegated authority to keep out the investor: but if Prince Edward Island is using some authority it already has, such as under its existing law, then it can still frustrate an investment permitted by the Foreign Investment Review Act.

Sentor Forsey: But subclause (6) would look after the things it might otherwise do by virtue of this legislation.

Mr. Strayer: Yes.

Senator Connolly (Ottawa West): I hate to go back on the question of strict liability, which arises out of subclauses (4) and (5), but putting the point as neatly as I can, the argument I made this morning was for the addition of the words "without reasonable cause," in both subclauses (4) and (5), and this morning the witness from the department, in discussing that, said that that would have the effect of destroying the value of the Woolworth case in so far as this legislation is concerned and perhaps it would go so far as to destroy its value for other legislation. He coupled that with a further statement that there were a good many pieces of federal legislation which had within them that phrase or a similar phrase. My understanding of the impact of the Woolworth case is that it does not affect those provisions, because the Woolworth case relieves from strict liability the situations envisaged in subclause (5) as it is now drafted. I did not think, therefore, it was going to change the general law as expressed by the Woolworth case, and I thought it would simply change this law and remove the strict liability provision. The witness went on and said he thought there was a good argument for retaining the strict liability provision in this bill. I do not say that I do not agree with that, but I do not quite understand why the department might feel that strict liability should be imposed by the bill.

Mr. Strayer: I am sorry that Mr. Landry is not here to speak for himself on this. When he said there could be a case for strict liability, I think he was referring to subclause (4) with respect to the liability of the company. I am afraid I cannot add very much, other than to say that this is a question of policy, a policy which has been adopted to date in this bill and has appeared in other bills and acts. I am not sure that I can add much to that.

Senator Connolly (Ottawa West): Since you put it on the basis of policy, perhaps we had better reserve it, Mr. Chairman.

The other point that I wish to raise is the one raised earlier by Senator Forsey, about the authority of the federal Parliament to legislate in the direction of clause 33(1) on the question of delegation.

Senator Forsey: My view, Senator Connolly, for what it's worth, is that the delegation provisions as they stand are probably all right, are constitutionally valid. I wasn't impressed by the argument of Mr. Greenbaum on that point. I should have thought that this is perhaps a slight extension but pretty much standard procedure of administrative delegation, which is a pretty widespread thing and is provided for in a good many pieces of legislation. It was even provided for, as I recall, in some of the immediate post-war labour relations acts in the provinces—in New Brunswick and Manitoba, I think, and possibly Newfoundland.

Now, it is true that this is a delegation to the lieutenant governor in council and not to the board, as in the marketing board cases, and cases which might have arisen out of the Labour Relations Act. I don't know that that really changes the thing fundamentally. They are my off-the-cuff observations on the matter, and I would be interested to hear what Mr. Strayer has to say on that particular point which Mr. Greenbaum raised.

Mr. Strayer: On the question of the kind of delegation which is proposed in the bill, I would perhaps adopt your words, that it is a slight extension of the typical form of delegation. But I think one would be hard pressed to find much of a practical distinction between this particular form of delegation and other forms which have been upheld by the courts. I am thinking particularly of a recent case in the Supreme Court, *Coughlin* v. *the Ontario Highway Transport Board*, 1968 Supreme Court Reports, 569. There was a question in respect to the Motor Vehicle Transport Act passed by Parliament in 1954, you may recall, after the famous *Winner* case when it was suddenly discovered that Parliament had jurisdiction over interprovincial busing and trucking.

Parliament very quickly passed this act, which delegated to provincial highway traffic boards the power to regulate interprovincial trucking and bus service on the same basis that they regulated local bus service and trucking. This scheme had passed muster in the courts at various times, but it came up again with respect to the point whether the province could keep on changing its rules and whether they would still be applicable even though Parliament had passed its delegation legislation with respect to a pre-existing set of rules.

In that particular situation in Ontario, the provincial board was applying regulations made by the lieutenant governor in council, and it was applying them—because of the mechanics established by the federal law—to both local trucking and interprovincial trucking. It seems to me that there is not much practical distinction between that and what we are talking about here. One could argue that the lieutenant governor in council thereby was controlling interprovincial trucking, and it was certainly within the context of a federal regime that he was able to do so through this route. I do not see much practical distinction between that and this situation.

On the question of the suggestion made by the representatives of the Canadian Bar Association, it is an interesting idea that was discussed in the committee of officials. At least one province thought this might be a possible approach—that is, to simply provide in what was section 24, and what we hope will become section 33 of the Citizenship Act, a simple provision that would say that this conferral or guarantee of the rights of aliens to own land would be subject to any provincial law passed under section 92(13) of the B.N.A. Act with respect to property and civil rights. It seems to me that this leaves one in a certain dilemma. As I mentioned this morning, we have two problems with the existing situation: one, a possible conflict with section 24, which could arise if any provincial law appears to deal with the rights of aliens to hold land, because section 24 says they have that right. There could be a problem of conflict. The suggestion made by the Bar Association and in the federal-provincial committee would have overcome that problem of conflict, on the face of it. I do not think it really addresses the constitutional problem.

It was said this morning, why not let provinces do what they want, do their thing, let them deal with this? We have been suggesting a regime which to some extend would do that. But I think their implication was that by amending clause 33(1) in this way we would be enabling provinces to legislate with respect to aliens, and I doubt that that is sound constitutionally. If we assume that this is a matter for Parliament, we are back to the problem of the Nova Scotia Interdelegation case. We would be purporting to give to provincial legislatures the power to deal with aliens. If the power to deal with aliens is not purportedly embraced by that kind of formulation, I do not see the point of it.

Senator Connolly (Ottawa West): It is a very good way to say it, as a matter of fact. We have been talking—I say

this only to clarify the point—about giving provinces the power to legislate with respect to aliens. But, in fact, we do not. For practical purposes it may come to that, but, in fact, they do not pass legislation. They issue orders in council which are vetted here in the way that has been described.

Senator Forsey: And which are valid because of this legislation, and not provincial legislation; whereas the other looks to me almost like a straight contradiction of the judgment in the interdelegation case, because it would appear to confer upon the legislature quite explicitly.

Mr. Strayer: If it is meaningful at all, yes, I think that is what it does. If it were to have any practical effect, it would have to enable the province to single out aliens for special treatment in its property laws; and that, we have argued, they cannot do. So by simply avoiding any conflict with clause 33, we would not be giving them any power that they do not otherwise have, and we would be throwing out the possible fetters on that control of foreign ownership which are implicit in the scheme which is proposed under clause 33.

Senator Forsey: In the case of international and interprovincial highway transport, Parliament has not delegated its power to regulate this to any provincial legislature. No provincial legislature can pass an act saying "This applies to interprovincial and international highway transport." What it has done is to say that under an act of the Parliament of Canada provincial boards many regulate in accordance with their practice in dealing with intra-provincial transport. That is the way I read it. It seems to me that there is an important legal constitutional distinction, if I may venture to say so.

Senator Connolly (Ottawa West): Well, you have tiptoed through the tulips here, some would say nimbly and others perhaps not so nimbly. I think there are problems in this area. Some, certainly, are policy problems. I have no further questions, and I thank the witnesses.

Mr. Strayer: If I might make one further comment, Mr. Chairman, with respect to the recommendations which have been put before you by the representatives of the Canadian Bar Association, their first recommendation is the replacement of clause 33(2) with another formulation. As I understand it, the association would delete the word "annul" leaving only prohibition and restriction. "Prohibition" is a word which I thought was not favoured in their lexicon, but it is included in their proposal. They then go on to provide for a rather more elaborate provision with respect to requiring that the person, on the date of such taking or acquisition, not be a Canadian citizen, or that the corporation, at the date of such taking or acquisition, not be effectively controlled by persons who are not Canadian citizens.

In other words, the Canadian Bar Association is concerned, as I read this, about the problem raised this morning that a person might acquire land while being a citizen of Canada and subsequently change his citizenship, and he would therefore be in default under some hypothetical provincial regulation.

We had not understood subclause (2) to mean that. It talks about prohibiting the taking or acquisition, directly or indirectly, by persons who are not Canadian citizens or by corporations or associations that are effectively controlled by persons who are not Canadian citizens. The important thing to note in respect of the possible prohibition on taking or acquisition by a person who is not a Canadian citizen is that it relates to the time of the taking or acquisition and not to some future time at which he might change his citizenship.

The germane point in time is the time of the taking or acquisition. If I might draw an analogy, there are prohibitions against a person driving if he is disqualified from driving. Surely those provisions relate to the time during which he is disqualified. If he drives and then subsequently becomes disqualified, he is not deemed to have committed an offence by reason of having driven in the past. If an individual, on the termination on his disqualification period, proceeds to drive, he is not deemed to have committed and offence, because the two events do not coincide.

By the same token, surely the present bill must be read as referring to citizenship status at the time of the taking or acquisition. That being the case, I do not see the point of the recommendation of the Canadian Bar Association.

The Acting Chairman: If there are no further questions, the committee will stand adjourned on this matter, to meet again at the call of the chair.

The next meeting of the committee will be on Thursday morning at 9.30, on Canada-U.S. relations.

The committee adjourned.

Ottawa, Tuesday, June 22, 1976.

The Standing Senate Committee on Foreign Affairs, to which was referred Bill C-20, respecting citizenship, met this day at 3 p.m. to give consideration to the bill.

Senator George C. van Roggen (*Chairman*) in the Chair.

The Chairman: Honourable senators, we are resuming consideration by the committee of Bill C-20, an act respecting citizenship. You will recall that we have approved all clauses of the bill, to all intents and purposes, other than clause 33, which has given us a good deal of concern and with respect to which we have called evidence to date from the Department of Justice and the Canadian Bar Association.

At our last meeting the committee passed a motion, which I will read for the record:

> Resolved that the chairman be authorized to speak to the Secretary of State and Minister of Justice to attempt to arrive at agreement respecting the delayed proclamation and amendment of subclauses (2) to (6), inclusive, of clause 33 of Bill C-20.

This meeting I arranged with both Mr. Basford, who has kindly consented to come today, and Mr. Faulkner, at Mr. Basford's office, where I set forth to both ministers a summary of some of the highlights of the concerns of the committee relative to the clause. It may help Mr. Basford focus some of his comments this afternoon if I review some of those points quickly. I made a statement to this effect to the ministers, that while possibly there was concern, starting with clause 33(2), relative to the constitutionality of the delegation of this authority to the lieutenant governors, we were not seriously concerning ourselves with the constitutionality of the clause, because there is another forum in which that may be properly settled in the event of a question of such a nature—namely, the Supreme Court of Canada. I said, however, that we were concerned with the following types of aspects of the proposed legislation:

That the wording could result in the annulment of bequests under wills, the voiding of which would result in the beneficiary not receiving the money's worth of the land which was bequeathed, but it would fall into the residue to the residual beneficiaries. The same might apply with respect to an *inter vivos* trust. That we were concerned that the lieutenant governor could delegate the authority already delegated to him so that an official in a province could make rules relative to this federal statute which would not necessarily be part of the regulations and would, therefore, not be published; and that those rules could be made without the intervention of the provincial legislature or any examination of any committee of such legislature. That if, indeed, this delegation of authority were to be given to a province, it should properly be confined to the lieutenant governor in council, rather than someone else he might delegate, in that all the rules they pass would have the force of law under this statute. That the federal statute should at least be in the regulations so that a person could write for the regulations and receive all the rules applying to him as a citizen of Canada or, indeed, as a foreigner. That the regulations, as they stand at the moment, would apply only to those items contained in clause 33(3)(a), (b) and (c) as opposed to all the rules passed by the lieutenant governor in council.

I touched on other concerns, including that expressed by witnesses at some length as to the problems that might arise on giving an opinion as to title, on searching title, as to foreclosure under mortgages by foreigners of money loaned in Canada, and the concern that, while provinces could pass restrictive legislation inhibiting property rights of people in this respect under the law as it stands now, this would at least be a provincial responsibility and this would clothe it with the dignity of a federal statute.

I then touched, with the ministers, on a concern with respect to the rather heavy criminal sanctions contained in clause 33(4) and 33(5), particularly when they are related to the types of unpublished provincial rules that could result from clause 33(2) that would not be in the federal regulations and, therefore, not part of the federal statute.

The conversation culminated in Mr. Basford's very kindly agreeing with my view that while this is a bill of the Secretary of State insofar as the Citizenship Act aspects are concerned, this particular clause, clause 33, is really more a question for him than for the Secretary of State, and that as it is primarily a legal matter he would deal with it. So he agreed that he would come before the committee today and see if he could put forward to the members of the committee either explanations of these problems and concerns we have or at least narrow the concerns as much as possible before we discuss the solution to our problem.

I would like, with those opening remarks on what has happened since you passed that resolution, to welcome the minister and thank him for coming. I ask Mr. Basford if he would now discuss his points relative to this particular clause of the bill.

Senator Macnaughton: Mr. Chairman, just to focus our attention, I believe you stated three points. One was the criminal side; the second was the clear title. What was your third point?

The Chairman: We have a number of concerns, but if I were to put them in order of seriousness, there is the fact that rules passed by someone delegated by the lieutenant governor in council would not necessarily be part of the regulations under the federal statute, yet a person could be liable to the criminal sanction under those rules. I might add that I mentioned also to the ministers the view that while the original exemption, which has been in the legislation for a hundred years, allowing foreigners to own land was logically put into the statute, we are now turning the coin over and are going into a whole new area of limitation by the 10 provinces, and it might be much more convenient for the subject if they were in a separate statute so that if a person asks for the act and regulations when becoming a citizen he or she would not receive a few pounds of rules and regulations.

Those were just minor points which I wished to make, but I just touched on some of the major ones I raised with the ministers, and now ask the minister if he would comment on them.

The Honourable Ron Basford, Minister of Justice and Attorney General of Canada: Mr. Chairman, honourable senators, I apologize for being late, but I thought the meeting was at 3.30. I appreciate your coming to see me, Mr. Chairman, and expressing your concerns. I will just run through them, as I understand them, very quickly, and then I will be open for cross-examination. I take it that, apart from any policy objections which people may have, there is no concern with respect to clause 33(1); and, of course, you are aware, as I understand it, from hearing witnesses from the Department of the Secretary of State and my own officials, of the history of amending the Citizenship Act at this time. That is a long series of, first, some attempts by provinces to regulate non-residents, and their desire through a long process of federal-provincial consultation to allow them to deal with land within their regimes in a manner not provided for under section 33, section 33 has been in the Citizenship Act since 1881.

I understand that there is no objection to that clause. Our objective in attempting to frame an amendment to the Citizenship Act was to give the provinces sufficiently broad power to allow them to act under it and not encourage them to act against non-residents. It seemed to us important as a policy matter that we should not put in a regime that so restricted them and so limited them that they would find it better to act under their own jurisdiction of property and civil rights to legislate against non-residents, which would obviously be the effect were we not able to come to an agreement with the provinces on the meaning and the use of section 33.

The Chairman: I apologize for interrupting you at this point, Mr. Minister. In my opening remarks I should have made it clear to the minister that we indeed know the background and have in evidence the background of the first ministers conferences at which this was discussed. In general, the committee does not have an objection, in fact, to the objectives of the government and—I think I speak for most members of the committee—to what the government is attempting to do. It is really technical matters to which we refer.

Hon. Mr. Basford: Yes, but I believe it is important, in getting to these points, to look upon this whole section from the point of view of policy: the section having to be sufficiently wide that the provinces will use this method of regulation rather than attempting to get at aliens or non-residents by dealing with non-residents of their provinces. There is nothing in section 33 which gives them any power which they do not already have to deal with the residents of their own province—nothing whatsoever. They are not

gaining here some unusual power which they do not already have in terms of dealing with their own residents.

As I understand it, you have expressed concern about words in subclause (2). The words are "prohibit and annual" in line 26, by which:

> The Lieutenant Governor in Council . . . is authorized, subject to subsection (6), to prohibit and annul or in any manner restrict the taking or acquisition . . .

I take it that the word "annul" has caused senators some concern. With great respect, I would suggest that the word is necessary. It was added by the draftsman to allow provinces the authority to control acquisitions which take place in contravention of the section. If there is no authority to annul a prohibited transaction, a person in contravention of the statute would pay the fine, serve his sentence, and keep the land. Without the power to annul prohibited transactions, there would be insufficient authority to enforce the legislation.

What I underline to senators is that it is only prohibited transactions to which the word "annul" refers. It gives no retrospective aspect to the statute. The statute authorizes them to "prohibit and annul," namely, to annul prohibited transactions. It is not a new or different power. It seems to me that if there is to be the power to prohibit a certain transaction, there must also be, as a corollary to that, the power to annul.

It is clear to me, on reading it, that it does not give the authority to retroactively annul existing land holdings by non-Canadians because the authority given, in line 27, is with respect to the taking, acquisiton, or succession to interests in property. The authority given is not with respect to the holding of real property.

The scope of subclause (2) should be compared with the scope of subclause (1), where subclause 1(a) refers to:

> taken, acquired, held and disposed of by a person

subclause (2) refers only to "the taking os acquisition directly or indirectly".

So, with respect, I would suggest that concern about the use of the words "prohibit and annul" or the word "annul", which was expressed by the Canadian Bar Association and by some senators, is not justified, in that the word "annul" does not stand alone; it is there related to "prohibit".

It seems to me only sensible that if someone is to be given the power to prohibit certain transactions, then, if they occur, they must have the corollary annulment power. On my reading of the act, and I think a careful reading of subclauses (1)(a) and (2), shows there is no retrospectivity to it.

I understand also that there is concern about the use of the word "succession". I again refer to the careful drafting of that, in line 26, that is to say:

> to prohibit and annul or in any manner restrict the taking or acquisition directly or indirectly of, or the succession to, any interest in real property located in the province by persons who are not Canadian

I suggest that the succession is merely an example of the taking or acquisition of interest in property described in the rest of the subclause. In one sense it adds nothing to the substance of the clause; and, conversely, its deletion would not substantially change the effect of the clause. It is included for technical, drafting reasons, because it is used in subclause (1)(b), which reads:

> a title to real and personal property of every description may be derived through, from or in succession to a person

The Canadian Bar Association apparently expressed the view that it was unnecessary to restrict transfers by inheritance because sooner of later the property would be sold. With respect, I think that this is based on the faulty assumption that sooner of later all property is transferred by sale. Of course, that is not necessarily so. Property could continue to be transferred by inheritance indefinitely, and certainly for a long period of time, if you did not deal with "succession."

The policy arrived at was to remove the constitutional road blocks and to allow provinces as much room as possible to develop their own regimes for regulating foreign ownership of land. Certainly they have that power as it relates to permanent residents.

Concern has been expressed that by the use of the word "succession" the delegated authority will allow the provinces to annul specific bequests in a will, and thus alter the positions among the beneficiaries of a will.

The word "succession" in subclause (1) is being used as a synonym for "derived through, or "from" and should be interpreted as having the same meaning in subclause (2). The fact that "succession" in subclause (2) is a synonym for "transfer by succession", and is not synonymous with the word "bequest", appears clearly in the French version of the statute. That version makes it clear that succession means "transfer by succession" and the word is not synonymous with "bequest."

The provinces can already, if they wish, under their own domestic law, annul bequests to specific individuals under wills and remake the wills of individuals.

Senator Connolly (Ottawa West): Would you repeat that?

Hon. Mr. Basford: Provinces can, under their own domestic law, annul bequests, for public policy reasons, to specific individuals and remake the wills of individuals. The old testators family Maintenance Act is an exercise of that provincial domestic authority; but I do not think that is what is referred to. What is referred to in subclause (2) is the acquisition of the property. That subclause does not seem to me to give them the power specifically to deal with a bequest.

Senator Connolly (Ottawa West): Mr. Minister, you spoke of transmissions, whether by way of deed, gift, succession or whatever. What about the situation of an alien, assuming that this legislation becomes effective, who owns a piece of property and regulations are made within the four corners of this proposed section? Are you saying, in effect, that while that person still owns the property in question, his right to use it is not disturbed, his possession is not disturbed, his title is not affected?

Hon. Mr. Basford: He would be left as the acquirer, undisturbed.

Senator Connolly (Ottawa West): That is my understanding.

Hon. Mr. Basford: The provinces could regulate that upon death a certain regime would come into place, as I understand the Province of Saskatchewan has already done in respect of non-residents relative to some farm land.

Senator Connolly (Ottawa West): This subclause is aimed at future disposition insofar as the example I have given you is concerned. I do not want to cast too wide a net.

Hon. Mr. Basford: Yes, and this is why I touched on the matter of succession. It is the taking or acquiring of property by any means, including succession.

Senator Connolly (Ottawa West): The taking or acquisition of property by sucession, bequest, deed, gift *inter vivos*, and so forth.

The Chairman: Succession must surely include all of them.

Senator Connolly (Ottawa West): In its generic sense, yes.

Hon. Mr. Basford: It applies to the taking or acquisition.

Senator Connolly (Ottawa West): The French version, in subclause (2), refers to "par dévolution successorale" and in subclause (1)(b), "par voie de succession." You have made it clear, so far as I am concerned.

Hon. Mr. Basford: That takes us down to the regulation-making power. I take it that the objection is that the regulations could become terribly obscure. That is, of course, not a new feature of the law—which is not a good defence. There are many provisions under federal statutes for regulatory agencies of one sort or another with regulation-making power, which, to some, could be characterized as obscure, to regulate a whole host of immensely important activities. It was partly for that reason that the Statutory Instruments Act was passed and that a review takes place to ensure that at least where there is a regulatory power, it is being exercised in accordance with about 16 criteria which that committee places on regulations. Subclause (3) would provide that regulations passed by the lieutenant governor in council would be subject, being passed pursuant to a federal act, to the Statutory Instruments Act, and to the vetting of the Department of Justice and the Privy Council Office to ensure three criteria are met, although the committee itself looks at more, those being that they are authorized by the statute, that they do not constitute an unusual or unexpected use—and I think those are the words of the committee—of the authority pursuant to which they are made, and that they do not trespass unduly on existing rights and freedoms and are not inconsistent with the Canadian Bill of Rights. Those are protections built into subclause (3) and the regulation-making power. It is paragraph (a) which is the important one, from the concerns I understand the Senate has expressed. It gives the regulation-making power, which is covered by the Statutory Instruments Act, to determine "what transactions constitute a direct or indirect taking or acquisition of any interest in real property located in the province". Those regulations will have to spell out the prohibited takings or acquisitions and how they are to be dealt with.

While one can argue that all regulatory power is obscure, in the sense that it involves regulations as opposed to statutes, nevertheless they are regulations, subject to the Statutory Instruments Act.

Senator Macnaughton: Mr. Chairman, what seems to be the most serious problem under this bill is the plight of the lender secured by a mortgage on real property. His mortgage certainly gives him an interest in the real property, and this bill would permit a province to prohibit mortgage lending by foreign corporations, even though this is not permitted under the Foreign Investment Review Act.

The Chairman: It is waived under the Foreign Investment Review Act.

Senator Macnaughton: Yes.

Hon. Mr. Basford: Only certain real property transactions come under the Foreign Investment Review Act. I believe the limit is $10 million.

The Chairman: I think all lending is waived under the Foreign Investment Review Act, is it not, as opposed to purchases?

Mrs. B. Reed, Constitutional Advisor, Department of Justice: I think you are correct, Mr. Chairman.

Hon. Mr. Basford: You are correct, Senator Macnaughton. The taking or acquisition, directly or indirectly, of any interest in real property, would obviously include leases and mortgages. Not to include them would leave an immense gap in the power of the provinces to regulate foreign land holdings. We could end up with a whole series of devices devised around either leases or mortagages to avoid any regulations against the holding in fee simple. Rather than holding by fee simple people could, through a lease, or some mortgage arrangement, totally avoid the regulations. It is also true that the provinces, if they so desired, could prohibit any foreign lending. That is undeniable. I am not aware of any province that wants to take that step. Given the present housing market, it would seem to me that the reverse is true.

I would also point out that as an overall control there is the fact that if some provinces act in a manner that is regarded as totally irresponsible, or totally contrary to the interests either of the province or of the country, then we can amend the proposed section 33. It is not a speedy process, but there is always that remedy and I think you should bear that in mind. Any powers being delegated here can be withdrawn; it is not an absolute surrender of power. It would seem to me that all interests in land have to be covered, otherwise you could get all sorts of devices developed to avoid provincial regulatory power. In Saskatchewan, rather than buying the farm land you would lease it in perpetuity, or close to perpetuity, or an arrangement could be made to mortgage it and foreclose it in favour of the foreign owner.

Senator Macnaughton: I am searching for information. I am not trying to be too critical. It seems to me that the uncertainty of title for mortgage lenders, whether foreign or local, will slow down the availability of funds for real estate purposes, such as home building. For example, last year there was an outflow of direct Canadian investment to foreign countries of about $205 million; this year it is estimated at about $500 million. This is extremely disturbing, and I hope that later on you will address yourself to two things, the uncertainty of title and the criminal provisions. It seems absolutely criminally unjust to put through a clause like clause 5 "without due cause"; a person in good faith making a mistake has to pay a fine, go to jail and all the rest of it.

Anything I have said, of course, is included in the Canadian Bar Association submission, with which I agree in principle. However, we are not here to argue a case; we are here to improve a bill if we can. I know that in the

profession people are extremely disturbed; by this, and if they had the chance—it could be said that they had the chance in the last two years, but many people did not know about it—you could have an army of people up here objecting to this bill and what it might mean in the future for the availability of investment, either local or foreign, and the insecurity of title. It will be a tremendous blow to the legal profession vis-à-vis trying to give a secure title, and it is very disturbing. I would call to your attention the suggestions of the Canadian Bar Association, which were very carefully made and are very serious. The financial implications of this bill are tremendous. I do not think our advisers have realized how this can be disturbing to the financial markets.

Hon. Mr. Basford: I have some difficulty with this question of uncertainty to title. It would seem to me that people get a certain title, which is obviously subject to laws passed, as is the case now with domestic residents of a province or non-residents of a province. Admittedly, I am not an expert in the jurisdiction in which you practise law. I come from a Torrens system where you get title. Your title is obviously subject, for example, to any changes the legislature might make in expropriation law, any changes a province might make, subsequent to that title, to laws relating to succession, any changes provinces may make, which they are now discussing, for the development of community property regimes. All of those are factors now.

Senator Macnaughton: I do not deny the right of Parliament to do anything it wants. Whether it should or not is another factor, and that is what we are discussing. I say the concept of annulling a person's title due to his nationality will make it very difficult to be certain of that person's title. This is not just a case of passing a law; this is a case of changing an economic system.

Senator Croll: The P.M. is in favour of that, you know.

Hon. Mr. Basford: I do not see where a man acquires an uncertain title. Like anyone else, he acquires title subject to the law. Admittedly the law can change, but I do not see that there is uncertainty put on his title.

Senator Macnaughton: Well, I do.

The Chairman: If regulations passed by the province were such that a person who held title became a foreign citizen while owning the land, and the land upon his becoming a foreign citizen reverted to the Crown provincial, for instance, that would be a cloud on title which would scare off any lender I can think of.

Hon. Mr. Basford: I am not specifically advised on that point, but I do not think that it is possible, because subsection 3(a) refers to what transactions constitute a direct or indirect taking or acquisition of any interest in real property located in the province. It does not seem to me to constitute what happens to the property if there is a change of citizenship.

The Chairman: It would seem to me possibly it should, though, for certainty in this legislation, if they are going to go into that. What happens to a corporation which is a Canadian public company under the federal legislation, less than 10 per cent owned by foreigners, and in the market foreigners acquire more than 10 per cent? It suddenly becomes a foreign corporation. What happens to land registered in its name under these regulations? They are silent. Surely the provinces would be endeavouring to cover that type of thing in regulations they would pass?

Senator Connolly (Ottawa West): I have spent some time thinking about the submission of the Canadian Bar Association the other day. It seemed to me that one of the important points they made was that just made by Senator Macnaughton, that a foreign lender, lemding on the security of a mortgage, would find himself in the position where he would have to foreclose, and having foreclosed, he would have acquired title perhaps in contravention of the regulations. Two things occurred to me about this. I hate to be taking this side, because I sponsored the bill, but it seems to me to be the right thing to say here. At the present time most of the provinces are in the position where they are encouraging every bit of foreign capital they can get. So the prospect of their making regulations which will hobble foreign investment, say for housing and that kind of thing, I would think is rather slight. Most of the provinces complain of the federal government's activity in the field of, say, the Foreign Investment Review Act, because they are afraid it might inhibit the inflow of capital to their province. So that it seems to me that they are conditioned to finding money where they can get it, and if they can get it on the foreign markets and encourage it to come, they will do that. We can expect that to have some influence upon the type of regulations they issue.

The second point, which has already been alluded to by the minister and which I thought about after listening to the representatives of the Canadian Bar Association, is that at the present time the provinces have the right to legislate in respect of these matters on the basis of non-residence in the province. That seems to me to be a very broad net. I said this in the house, but I do not believe there was much attention paid to it: this seems to me to be an invitation to the provinces to legislate in a more restricted field.

The Chairman: Not to include Canadians in the net.

Senator Connolly (Ottawa West): Not to include Canadians in the net.

The Chairman: That is the desirable objective of this legislation.

Senator Connolly (Ottawa West): That is right, and whether the provinces accept the invitation or not is another question. However, I think, the provinces now have the right to say in respect of non-residents of the provinces, including Canadians, what it is unable to say with respect only to aliens because of this legislation, so that everything that they are empowered to do here in effect they now have the power to do in respect of a broader area.

The Chairman: That is quite correct.

Senator Connolly (Ottawa West): If I am right with respect to those two points, I am really not too concerned with respect to this clause. Perhaps the criminal aspect of it is something that the committee would like to investigate, but on that point I think, faced with the problems that some of the provinces feel they have in respect of non-residents or aliens buying up and owning large sections of their territory, this is not simply a matter of saying the government wants it, therefore it will be done. This is, rather, a sort of reasonable manner in which to arrive at a solution which might be workable. I do not think that we can lay down rules which will be hard and fast, but we must think about what the provinces might be inclined to do. Perhaps, despite some of the things the

chairman said by way of horrible examples of things the provinces have done, in this they are likely to be a good deal more judicious.

The Chairman: Senator Connolly, if I could just make this point, though: We agree with the minister's viewpoint expressed a minute ago that these are all powers that the provinces have anyway so long as under the Supreme Court ruling they apply them to everyone, including other Canadians not living in the province. We agree that this is a worthwhile objective, to endeavour to make it applicable to foreigners only. However, if the provinces pass legislation without the assistance of this federal statute, firstly they have to indeed pass legislation, which means that it comes under the scrutiny of their legislature and under the scrutiny of a provincial legislative committee; and then, if they wish to be repressive in their legislation, so be it. The federal government can, by using its power of disallowance, prevent that, but at least it is not clothed with the dignity of the federal statute.

Under this mechanism which is before us the legislature, as I read it, does not have to pass a bill; it does not have to expose its rules to its legislature; it does not have to have them examined by the elected representatives nor go before a committee of the legislature in the province. One person, not even a member of the cabinet but someone delegated by the lieutenant governor in council, can pass these rules and regulations which in so far as they are rules under subsection (2) and not regulations under subsection (3) then invoke the dignity and the criminal sanction of this federal statute. There are many examples of provinces passing very poor, ill-conceived and repressive legislation in Canada, and we have had many examples of it.

Senator Connolly (Ottawa West): Yes; you have given some.

The Chairman: That is where the expression "double standard of political morality" comes from, the higher level of political morality in legislation passed at the federal level than at the provincial level in Canada. We would be clothing the type of thing the provinces have been seen to do in the past, and are capable of doing in the future, with federal criminal sanction and federal dignity under this statute. Because of this mechanism, it does not even have to go through the provincial legislature. The foreigner who finds himself caught in some fashion, or the person with respect to a will—I do not agree with the minister's interpretation of this, although I admire his ingenuity—or a succession under a trust which is to take place in the future, not in the past, a future will which has already been drawn up but has not yet come into effect, the foreigner is not going to simply say that that is just the fault of the province. He will look at this federal legislation and say that is the legislation of the Government of Canada. I think that Senator Macnaughton, on foreign investment and mortgage lending, has a good point, because lenders are inclined to look at this and say that is the federal legislation and that is what they will face, whether they will or not. That is certainly one of my principles.

Hon. Mr. Basford: Returning to your comments, Mr. Chairman and those of Senator Connolly, first the delegation is not to a legislature, for constitutional reasons, as we cannot do that, and I believe you have had evidence with respect to that. So it must be delegation to the lieutenant governor, and the problem is exactly as put by Senator Connolly. If the delegation is too restrictive or very restrictive, then provinces will do precisely what they now have done in a small way and they will do more of it, I anticipate, namely regulate against non-residents, including Canadians and including aliens, but not identified per se. From a policy point of view, that seems to us a quite undesirable situation, that there would be regulations passed—I am not making reference to any case, but regulations passed by, for instance, the Province of New Brunswick which would affect Nova Scotians, or by the Province of Saskatchewan which would affect Albertans. It is that very situation that we have been endeavouring to avoid. In my opinion, that must constantly be borne in mind. If this policy is to succeed at all we must delegate to the provinces sufficiently broad authority so that they will act under this delegation rather than under their own domestic power over property and civil rights within the provinces, over which they have very great powers to legislate, be it leases, foreclosures or anything else, against non-residents.

Senator Connolly (Ottawa West): Could I interrupt you there, sir?

Hon. Mr. Basford: Yes.

Senator Connolly (Ottawa West): The point on which I believe you must satisfy the chairman and, perhaps, other members of the committee—I am speaking now as though I were counsel for someone—is this: The chairman says, let us assume that the province exercises the power that is given by this, and it will not have the legislature as a check on what it does because this will be done either by the lieutenant governor in council or by an official delegated by him, the regulation will issue as a result and there will be no sanction required in the legislation. What, if any, are the safety valves provided by the federal legislation? Am I not correct in that?

Hon. Mr. Basford: There are two safety valves involved: one is the ultimate remedy of amending proposed section 33 and withdrawing the delegation, or part of the delegation. That is obviously an extreme remedy. The lesser but equally effective remedy, it seems to me, is subclause (3), in which the regulations passed are subject to the Statutory Instruments Committee.

It is subclause (3) which is the regulatory power, not subclause (2). While, under subclause (2) the lieutenant governor in council may delegate to another body the prohibiting and annulling, the takings or acquisitions must be defined by regulation under subclause (3). So I differ from the chairman, in that we are not having an official passing regulations prohibiting all sorts of transactions, except in accordance with the regulations passed under subclause (3).

The Chairman: Could I ask you this: subclause (3) uses the word "may"—

> The Lieutenant Governor in Council of a province may make regulations—

If we take the word "regulations" as meaning regulations under this act, which is what it means, he may make regulations, or he may choose to make regulations, under this act if he so wishes. There is nothing in subclause (2) which says that he need go that route, and (2) does not say subject to regulations under (3), or anything else.

The penalty section does not refer to a penalty against one of the regulations under subclause (3), but "fails to comply with any prohibition, annulment or restriction".

Under subclause (2), as I read it, that is a clause within itself. If the provincial government does not wish to dignify its rules with federal regulations, it does not need to do so, but may, under subclause (2) designate someone who is therefore authorized, subject to subclause (6)—he must not go outside of (6) . . .

> to prohibit and annul or in any manner restrict the taking or acquisition directly or indirectly of, or the succession to, any interest in real property located in the province by persons who are not Canadian citizens—

That subclause reads as an entity in itself. I believe the evidence of your officials before us last week was to the effect that, yes, there would be separate rules under subclause (2) which would not be deemed regulations under the act, and there could be regulations passed under subclause (3), if they so wished.

Mrs. Reed: They could, under subclause (2), make orders saying, "No, you "Mr. X" may not own this specific property"; we can make an analogy between the authority delegated under subclause (2) and administrative authority that is given to any federal board, where it says such-and-such a federal board may order, prohibit, annul. The board may then make orders, but in order to find out the board's power you have to look at the regulations. The board just cannot go off on its own; you have to look at the authority delegated under the statute. The board cannot go off on its own and start doing all sorts of things.

The Chairman: Surely there must be rules. Let us not use the word "regulations." There must be rules and prohibitions which it can make under subclause (2) which would not be set forth in the regulations under subclause (3); is that not correct?

Mrs. Reed: The authority under subclause (2) is the prohibiting authority; it is not a regulation-making authority. Under subclause (2) it is an administrative authority to prohibit.

The Chairman: If you prohibit something and annul, and in any manner restrict, and so on . . .

Mrs. Reed: Perhaps I should use the word "execute" and say that the authority under subclause (2) is an executing authority. The authority under subclause (3) is a regulation-making authority.

The Chairman: Are you saying that if they did not avail themselves of the permissive authority under subclause (3), which is "may" make regulations, then (2) would not apply?

Mrs. Reed: I could see them singling out individual instances under subclause (2) without making regulations under subclause (3). I could hardly see them making rules under subclause (2) to apply in a broad sense and not—

The Chairman: Why in the penalty section . . .

Senator Connolly (Ottawa West): Doesn't subclause (2) mean that some provinces have not acted in this field at all, even in respect of non-residents? This authorizes them to go ahead and do it, but, as I have said, not to cast the net that wide. Subclause (3) is the general authority to make regulations for the administration of the thing, if they act under subclause (2). Is that not it?

The Chairman: Senator Connolly, why then would the penalty clause in subclause (4) say:

> Every person who fails to comply with any prohibition, annulment or restriction made pursuant to subsection (2) —

It has nothing to do with being guilty of an offence against the regulations: it is being guilty of an offence against subclause (2); that is the offence.

Senator Connolly (Ottawa West): That is the substance of the thing.

Hon. Mr. Basford: Subclause (4) is where a particular transaction is prohibited, but which transactions are prohibited in a general way are provided for under subclause (3).

Senator Connolly (Ottawa West): But the basic one is subclause (2), which is the substantive part of clause 33.

Hon. Mr. Basford: Subclause (2) is the prohibition clause. What becomes a class of prohibited transaction is provided for under the regulations passed under subclause (3), namely, what transactions constitute a direct or indirect taking, what constitutes effective control, and what constitutes an association. Then, when they are determined, under subclause (2) the lieutenant governor in council, or his authorized body, has power to prohibit; and someone failing to obey those prohibitions is subject to a penalty under subclause (4). But subclause (3) does not itself set out the individual prohibited transactions. You have to have a scheme in which the lieutenant governor in council, by regulation, says what transactions are prohibited, whether sale of freehold, what happens on a mortgage foreclosure, what happens on the expiration of a lease, sets out the nature of transaction, and sets out what constitutes a non-Canadian or a non-eligible person. Then, if there is a transaction which falls within that class, the lieutenant governor in council, under subclause (2), prohibits that specific transaction and if need be annuls it; and a breach of that is subject to the offence provision, which is subclause (4).

The Chairman: Going back to the transcript of Mr. Strayer's evidence, on page H-4 I said:

> It appears that the lieutenant governor in council or someone else under subclause (2) can do certain things, make certain rulings, that would not involve regulations. Then, under subclause (3) he may pass regulations which would become regulations under this act . . . But those regulations would not include all of the prohibitions, annulments and restrictions referred to in subclause (4).
>
> So there are two things.
>
> MR. STRAYER: That is true, although presumably subclause (3) . . .
>
> THE CHAIRMAN: So the regulations you are speaking of are only those confined to subclause (3)?
>
> MR. STRAYER: Yes, and to the extent that those things are specifically authorized in subclause(3), it would be our interpretation that they are not covered by subclause (2). I think this is germane to one of your concerns, Mr. Chairman, that provinces might have rather odd regulations about what constitutes control of a company. Conceivably they might—

I had raised the question of a company before. I was left with the clear impression at that time, Mr. Minister, that the regulations under subclause (3) would not constitute the sum total of what would be the rules and regulations

under which an offence could be committed under subclause (4), and that there would, therefore, be two sets, being the rules set forth under subclause (2) and possibly some regulations under subclause(3), if the provinces chose to institute such regulations.

Hon. Mr. Basford: I think that the lieutenant governor has to first set out what takings or acquisitions are covered by the proposed regime. He would have to set out who are non-eligible persons or what constitutes an association. Having determined that, subclause (2) comes into play to allow the lieutenant governor, or some agency, to prohibit and annul transactions that fall within that class. The analogy, Mr. Chairman, if I may draw it, within domestic law is that of the Land Commission in British Columbia, where the statute and the regulations of the Land Commission set out the types of lands and the types of regulations that are covered, but it is the commission itself that prohibits and annuls a transaction that falls within that class of case.

We certainly do not want before the Statutory Instruments Committee a regulation that "A" will not be able to buy "B's" farm. I do not think the committee wants that kind of material in front of it.

The Chairman: No, but that type of thing should not be done under the blessing of a federal statute, either, surely?

Hon. Mr. Basford: If it is not dome under the blessing of a federal statute, it is either not done at all or the provinces pas regulations aimed not solely at aliens but at all non-residents, including aliens.

The Chairman: But if they are going to pass such repressive legislation, they would have to go to their respective legislatures to do so. We are giving them the power to pass such repressive legislation under this statute without publishing the regulations.

Hon. Mr. Basford: But under subclause (3) they have to publish the regulations.

The Chairman: They do not have to; they "may" pass regulations.

Hon. Mr. Basford: But they will not have a definition of a taking or an acquisition until they do pass regulations.

I should like to go back to the concern expressed about mortgages. It seems to me that the concern that has been expressed is really one of mistrust of the provinces, and that the mortgage company, on foreclosure, would end up with a piece of property which, under some scheme, being an alien corporation, it could not hold. It seems to me beyond belief to suspect that any province in this country would pass a regime such that that person or corporation would not get his money's worth for the asset that he had acquired. I am not aware of any provinces in this country that believe in confiscation.

The Chairman: Mr. Minister, I could list for you several provincial statutes in that respect.

Hon. Mr. Basford: I disagree. I do not see the provinces passing legislation under this regime, or legislation that would confiscate foreign-held property.

The Chairman: Or pay half the value therefor.

Senator Croll: It is always subject to the courts, is it not?

The Chairman: No.

Senator Croll: All expropriations are subject to a court review. Give me an example of one where there is no right to go before a court.

The Chairman: I don't know whether I should take the time of the committee now, Senator Croll, to list them for you, but I could give you half a dozen off the top of my head.

Senator Croll: Give me one.

The Chairman: The attempt of the provincial government in British Columbia, when it took over the B.C. Electric Railway Company. It simply stipulated the amount. The courts found loopholes in the legislation and eventually, after many years, awarded the shareholders more than the provincial government statute stipulated they should get. It was certainly through no blessing of the legislature, which tried to held them to a fraction or a proportion of what the court later held they were entitled to.

Senator Croll: I do not care what eventually happened. The point is that they had an opportunity to take the matter before the courts. That is my point.

The Chairman: In that particular case, they managed to get before the court. But as Senator Macnaughton said a few moments ago, we agree that legislatures in Canada have the power to do almost as they choose. We do not have the protection that the American Constitution gives its citizens in that respect.

I would have to go back to my speech on federal disallowance of provincial statutes to list some of these for you, Senator Croll, but there is also the example of the mining claims that were abolished in Manitoba. There is a variety of provincial legislation. I could go to the present potash legislation, but it is before the courts so I should not speak to it here.

Senator Croll: Under certain conditions, we dealt with mining claims in Ontario where they did not do such-and-such and we took the rights away.

The Chairman: I do not think we should go too far afield. The point I made, and on which the minister has commented, is that if the provinces wish to pass that type of legislation, the federal government cannot prevent them from doing so. We would hope that they do not do it very often, but if they choose to do it they should not do it under the umbrella and the dignity of federal legislation, particularly when it does not have to go before the provincial legislature for scrutiny.

Senator Croll: Mr. Chairman, the point that you make is one thing. The point made by the Canadian Bar Association does not impress me in the slightest. I was not here when they appeared before the committee, so I sat around and listened for a while and then talked to a few of the people who were here then they gave their evidence. Frankly, I am prepared to take the word of the government people, the government advisors, who went over this bill, and the view of dozens and dozens of good lawyers in the House of Commons who never raised it, to my knowledge, rather than the view of the Canadian Bar Association.

The minister has some views on it and he disagrees with the Canadian Bar Association and says that this is something which is not perfect, perhaps, but which will be

corrected, as is often the case. He says we have to reach out in that field. Under the circumstances, I am prepared to go along with the minister and support this bill and see what happens, as we have done in respect of a great number of bills, rather than accept the view of the Canadian Bar Association, whose representatives are not here. I am here. I know my witness. I know the legal advisors, and I have confidence in the minister and his advisors. For those reasons, I can only accept the view of the minister.

The Chairman: Mr. Minister, I do not know whether you had completed your remarks on that point.

Hon. Mr. Basford: I presume that at some point we are going to end up at the penalty clause.

The Chairman: Yes.

Senator Connolly (Ottawa West): Perhaps we can deal with the penalty clause now.

Hon. Mr. Basford: I take it there is no concern about subclause (3), and I point out that this is where the regulations have to be passed.

Subclauses (4) and (5) have caused honourable senators some concern. Penalty clauses always do. These are relatively standard penalty clauses. The Canadian Bar Association, as I read the evidence, took exception to the penal sanctions in the clause and made reference to the Foreign Investment Review Act, and suggested procedures similar to those under that Act. However, the Foreign Investment Review Act has its own penalty clause, which they did not point out. It seems to me that, regardless of how you word the penalty clause, some penalty clause is necessary, otherwise persons would be free to try to evade the law and suffer no consequences as a result, except that their transaction would be annulled. In the meantime, they would have had a run at evading the legislation.

The Chairman: I do not think the concerns of senators involved no penalty at all; it was a question of wording.

Hon. Mr. Basford: The analogy is the penalties in the Income Tax Act, otherwise people would avoid paying their income tax and when they got caught would just pay up without penalty, and you would see the incidence of non-compliance increasing immensely. It is difficult to word penalty clauses or to know what is appropriate. These are not inconsistent with ones that have been passed in many other statutes by the Senate. In this session there have been seventeen penalty clauses framed and passed.

Senator Connolly (Ottawa West): This way?

Hon. Mr. Basford: This way.

Senator Connolly (Ottawa West): You mean, strict liability penalty clauses?

Hon. Mr. Basford: Yes. In the Feeds Act the penalty section was, I am informed, strengthened in the Senate, because it was pointed out that it was desirable to increase the liability of executive officers. Senators' concern was that it was too easy for corporate officers to escape liability by saying, "We did not know anything about it. Someone down the ladder did it." The Senate has expressed its concern about the Business Corporations Act. Many of the offences under that act are qualified with the words "without reasonable cause," and I do not take exception to that.However, I think one has to look at the Business Corporations Act and at what the duties are. They are: failing to keep records, failing to keep minutes, failure to file tax returns, failure to file insider trading reports, notices to shareholders and one thing and another. That seems to me to be an appropriate type of offence to put in with "without reasonable cause."

I believe this is a different kettle of fish. This is a scheme to prohibit certain transactions, and it is the failure to comply with that prohibition that is the offence. It seems to me that the penalty clause should be one of much stricter liability. You are prohibited from doing a certain thing; you breach that prohibition; it seems to me this is the appropriate wording for the penalty clause to go with that. As I say, I think you have to bear in mind that this is a penalty clause relating to something that is prohibited under the statute, and if someone goes ahead in the face of that prohibition—

The Chairman: Whether he knows or not?

Hon. Mr. Basford: You have to have that kind of prohibition.

The Chairman: What if he has no knowledge of the rules passed in the province, and the province has not passed any regulations?

Hon. Mr. Basford: The province has to pass regulations under subclause (3).

Senator Croll: Mr. Chairman I think you are looking at the word "may." I think the minister is right on that. The wording is "may make regulations," but it means "will make regulations." That is what the word always means. Without that it will not work at all, will it?

Hon. Mr. Basford: Without a regulation you do not have a definition of what is a direct or indirect taking or acquisition.

Senator Croll: That is the point.

Hon. Mr. Basford: You say you do not know about it—

The Chairman: I know ignorance of the law is no excuse.

Hon. Mr. Basford: One of the analogies that has been brought to my attention, by which the federal law incorporates other regulations, is the Juvenile Delinquents Act, where, by federal legislation, provincial laws and municipal by-laws are brought in so that if someone breaches them as a juvenile he commits a federal offence, he can be declared a juvenile delinquent. That is an analogy the other way, but I think it is an apt one.

Subclause (5) says:

> any officer—who directed, authorized, assented to, acquiesced in or participated in the commission of the offence—

There have been clauses drawn which make the officer or director liable whether or not he participated, or acquiesced in, which many people, the Senate included, have taken very considerable exception to. I direct your attention to the fact that the officer or director must have directed, authorized, assented to, acquiesced in or participated in the commission of the offence. He is not automatically liable simply because he is an officer or director.

Senator Connolly (Ottawa West): Mr. Chairman, I think we have had a pretty good go at clause 33, not only

today but at earlier meetings of the committee. I think the minister has probably given us all we can expect a minister to come and say about a clause like this. As I said earlier, I sponsored this bill in the Senate, and in order to bring the matter to a head I would, on my own responsibility, move that the clause be adopted, leaving it to the committee to decide what should be done.

The Chairman: It is moved by Senator Connolly that clause 33 be adopted in its entirety.

Senator Croll: I second that.

Hon. Senators: Agreed.

Senator Connolly (Ottawa West): I think we are very much indebted to the minister for the very painstaking kind of presentation he has made here today. I know there are problems with this clause, and I think the minister realizes that some members of the committee are deeply disturbed about what could take place.

In our evolving relations with the provinces we have to acknowledge their own capacity and their own desire to do what is provident not only for the province but for the country. In my opinion, this invitation not to spread the net so widely is a good first step in this field.

The Chairman: Thank you, Senator Connolly.

Honourable senators, in considering the bill clause by clause we left two clauses which did not carry, not for substantive reasons, but simply for the reason that if there was to be an amendment to the bill elsewhere we would recommend these amendments in order to tidy up punctuation and so on, which certainly would not have warranted, on thier own, amendment to the bill.

The first clause was clause 23, in which there was a question as to whether the word "regulations" should be capitalized. Does clause 23 carry?

Hon. Senators: Carried.

The Chairman: Does clause 39 carry?

Hon. Senators: Carried.

The Chairman: Shall the schedule carry?

Hon. Senators: Carried.

The Chairman: Shall the title carry?

Hon. Senators: Carried.

The Chairman: Shall the bill carry without amendment?

Senator Lafond: I move that the bill be reported without amendment.

The Chairman: Shall I report the bill without amendment?

Hon. Senators: Agreed.

The committee adjourned.

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FIRST SESSION—THIRTIETH PARLIAMENT
1974-76

THE SENATE OF CANADA

PROCEEDINGS OF THE STANDING SENATE COMMITTEE ON

FOREIGN AFFAIRS

The Honourable GEORGE C. van ROGGEN, *Chairman*

Issue No. 38

THURSDAY, JUNE 10, 1976

Thirty-Fourth Proceedings Respecting:

Canadian Relations with the United States

(Witnesses—See Minutes of Proceedings)

21684—1

THE STANDING SENATE COMMITTEE
ON FOREIGN AFFAIRS

The Honourable George C. van Roggen, *Chairman*

The Honourable Allister Grosart, *Deputy Chairman*

and

The Honourable Senators:

Asselin	Lafond
Barrow	Laird
Bélisle	Macnaughton
Cameron	McElman
Carter	McNamara
Connolly (*Ottawa West*)	Rowe
Croll	Sparrow
Hastings	Yuzyk

Ex officio Members: Flynn and Perrault.

(Quorum 5)

Order of Reference

Extract from the Minutes of the Proceedings of the Senate, Wednesday, November 6, 1974:

Pursuant to the Order of the Day, the Senate resumed the debate on the motion of the Honourable Senator van Roggen, seconded by the Honourable Senator Riel:

That the Standing Senate Committee on Foreign Affairs be authorized to examine and report upon Canadian relations with the United States;

That the Committee be empowered to engage the services of such counsel and technical, clerical and other personnel as may be required for the purpose of the said examination, at such rates of remuneration and reimbursement as the Committee may determine, and to compensate witnesses by reimbursement of travelling and living expenses, if required, in such amount as the Committee may determine;

That the papers and evidence received and taken on the subject in the preceding session be referred to the Committee; and

That the Committee have power to sit during adjournments of the Senate.

After debate, and—

The question being put on the motion, it was—

Resolved in the affirmative.

Robert Fortier,
Clerk of the Senate.

Minutes of Proceedings

Thursday, June 10, 1976
(47)

Pursuant to adjournment and notice, the Standing Senate Committee on Foreign Affairs met *in camera* at 9:35 a.m. this day.

Present: Honourable Senators George C. van Roggen (*Chairman*), Barrow, Cameron, Carter, Connolly (*Ottawa West*), Grosart, Lafond, Macnaughton, McNamara and Rowe. (10)

In attendance: Mrs. Carol Seaborn, Special Assistant to the Committee; Mr. Bill Neil, from the Library of Parliament, Research Assistant to the Committee; and Mr. Peter C. Dobell, Director, Parliamentary Centre for Foreign Affairs and Foreign Trade.

The Committee discussed future procedure on Bill C-20, An Act respecting citizenship.

On motion of Senator Cameron,

Resolved,— That the Chairman (Senator van Roggen) be authorized to speak to the Secretary of State (Hon. H. Faulkner) and the Minister of Justice (Hon. R. Basford) to attempt to arrive at an agreement respecting the delayed proclamation and amendment of subclauses (2) to (6) inclusive of Clause 33 of Bill C-20.

The Committee then continued its study of Canadian Relations with the United States.

Witnesses: *From Canadian General Electric Company:*

Mr. Walter Ward, Chairman of the Board and Chief Executive Officer; and

Mr. V. L. Clarke, Vice-President in charge of Strategic Planning.

Agreed—That portions of the proceeding of this *in camera* meeting be printed, subject to the approved of the witnesses concerned.

At 12:30 p.m. the Committee adjourned to the call of the Chairman.

ATTEST:

E. W. Innes,
Clerk of the Committee.

The Standing Senate Committee on Foreign Affairs

Evidence

Ottawa, Thursday, June 10, 1976

The Standing Senate Committee on Foreign Affairs met this day at 9.30 a.m. to examine Canadian relations with the United States.

Senator George C. van Roggen (*Chairman*) in the Chair.

The Chairman: Honourable senators, the witness today is Mr. Walter Ward, Chairman of the Board and Chief Executive Officer of Canadian General Electric. He is accompanied by Mr. V. L. Clarke, Vice-President—Strategic Planning.

Our most recent witnesses, as you will recall, Mr. Culver of Alcan and Mr. Powis of Noranda, gave the committee very helpful and useful evidence of two large Canadian multinationals, in the general area of resource company activity in Canada.

Today, by contrast, we have a large Canadian subsidiary of a U.S. multinational primarily in the manufacturing sector. Mr. Ward will be addressing himself, in particular, to the problem of Canadian competitiveness in the manufacturing area, and how Canadian manufacturing industries can increase their ability to compete.

Mr. Ward, a native of Peterborough, Ontario, graduated from McGill University in electrical engineering and started with Canadian General Electric in 1931. He had a distinguished record in the Second World War, rising to the rank of lieutenant commander in the navy. He has held a wide variety of posts with the Canadian company and with General Electric Company in various parts of the world. In 1968 he returned to Canada as executive vice-president of the Canadian General Electric Company, and in 1970 became president and in 1972 chairman of the board and chief executive officer.

Although today's meeting is *in camera*, at the request of Mr. Ward, if you agree, we will follow the procedure we did on several occasions last year in similar circumstances, namely, take a record of the proceedings, which Mr. Ward will be entitled to vet before it is printed.

I might mention that in discussing this matter with Mr. Ward, he mentioned he had certain internal information, internal to his company, which he thinks would be helpful to the committee and, in addition, questions that he is prepared to answer relative to internal matters which he feels would be helpful to the committee. Of course, if he is to be free to give us that type of information, he should be given the courtesy of vetting it for matters which might prove difficult for the company with regard to competitors or labour negotiations.

I will now ask Mr. Ward to start with an opening statement, following which Senator Carter has kindly agreed to lead off the questioning.

Mr. Walter Ward, Chairman of the Board and Chief Executive Officer, Canadian General Electric: Thank you very much, Mr. Chairman. I am pleased to have the opportunity to discuss with you and your associates, this morning, some issues we think are important, which have gained some national prominence in recent years and, particularly, in the area of compensation, productivity and competitiveness.

In his confirming letter to me, Mr. Dobell noted that I expressed a desire to concentrate on these issues. This was primarily because I felt that if we did that we could probably give you the greatest amount of in-depth information, which I might say in passing is not necessarily presented with the idea that it is absolutely correct but it is the best information we have and certainly is accurate in so far as our company is concerned.

I would like this morning, with your permission, to make some general remarks about Canadian manufacturing wage rates, productivity and competitiveness. I will follow this with some specific information on relative productivity and wage rates of some of my own company's Canadian plants, compared with their counterparts in the United States. Finally I would like to offer views on the implication of some of these trends, and some views on selected areas, which I think perhaps would be of interest to the committee, particularly regarding improving Canada's position in the goods producing industries. Then, of course, I will be very pleased to answer any questions.

Perhaps, Mr. Chairman, it would be useful if I run through a very short summary of the company, Canadian General Electric. Would that be helpful?

The Chairman: Yes. I think it would be most helpful and interesting. If there are any charts or other things which you have for distribution at any point in your presentation, let me have them and the clerk will see that they are distributed.

Mr. Ward: There may be questions or information that you are interested in, which require answers in more depth than I might be able to cover today. We will be glad to develop that for you and send it to the committee subsequent to this meeting.

The Chairman: Thank you.

Mr. Ward: First, Canadian General Electric was established in 1892. Its 1975 overall sales volume was $822 million. That breaks out into what we call apparatus and heavy machinery, industrial machinery and equipment, $389 million, about 45 per cent; construction and industry supplies—this is to the entire construction industry—and light industrial plant, $286 million, about 33 per cent; consumer goods businesses—pretty well a full line of consumer goods in terms of electrical consumer goods—$195 million, which is 22 per cent.

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Those numbers add up to $870 million, and we get back to the company total of $822 million, because there are internal eliminations between the divisions.

The products range from light bulbs to heavy power generation equipment; steel mill and pulp and paper machinery, and the electrical systems to drive and control this equipment; home appliances of all types, wire and cable, television, propulsion machinery for ice breakers and transportation of various types, including diesel electric locomotives; and fuel and fueling machines for the CANDU nuclear reactors.

There are about 18,800 employees, and we employ between 800 and 900 scientists and engineers. We have 32 manufacturing plants, plus quite a number of service shops and sales offices at more than 100 locations across Canada, including one we have just opened recently at Fort McMurray, in Northern Manitoba.

Our exports last year were $86.4 million, which was about double the 1971 figure. These were made to approximately 45 countries, pretty well covering the entire world. We can elaborate on that later if you wish.

Talking about Canadian manufacturing productivity first, you are all aware, of course, that the Minister of Finance acknowledged concerns about Canadian productivity in his budget adress of May 25 when he stated:

> The government is giving urgent attention to the whole range of policies which can be brought to bear in fostering producitivity.

Senator Connolly (Ottawa West): Do you mind if I interrupt to ask you, in connection with the general position of the company, whether there is any Canadian ownership?

Mr. Ward: Yes. The public ownership is 8 per cent and 92 per cent is owned by General Electric.

Senator Connolly (Ottawa West): It is a public company?

Mr. Ward: Yes, a public company. Incidentally it has been a public company since the beginning, and was one of four industrial companies that were on the Toronto Stock Exchange in about 1905, and which are still on the stock exchange. I just throw that in, I hope you will not mind.

Senator Connolly (Ottawa West): No; that is agreed.

Mr. Ward: Statistics Canada earlier this year released figures showing that again in 1975 as in 1974 productivity or output per person employed in Canada's overall economy had actually decreased by 1.7 per cent and 1.5 per cent respectively. This was attributed in part to the recession. In both years increases in the number of people employed masked these decreases in national productivity by providing the modest real increases in gross national product which Canada experienced in 1974-75; and, in fact, for several years now it is interesting that the increases in the number of employed have provided the major portion of the real increases in Canada's gross national product, thus raising concerns about growth in Canadian productivity, which is the basis for real increases in standard of living.

While the overall economy was registering in 1974-75 overall declines in productivity—as I have just stated, 1.7 per cent and 1.5 per cent—the manufacturing sector did manage to achieve a modest increase of just under 2 per cent annually; but these were well below the gains that the industry achieved from 1969 through 1973.

Important, of course, is how well we have done compared to our major trading partner, the United States. I might divert here for a moment to read a quotation which Mr. Clarke gave me the other day. I must say, I like to have numbers and I like to deal with them, but I do not like always to depend on them without some other kind of input.

This is a little item that was written by Alexander Pope in his book *Moral Essays*. You might find it of interest:

> In vain the sage, with retrospective eye
> Would from the apparent conclude the why
> Infer the motive from the deed and show
> That what we chanced was what we meant to do.

So when I give you this information on productivity, I hope you will keep in mind that little item and my recognition that the figures are not always the total story. I think this has been more evident than ever in the past two weeks when you will have noticed that many of them have been changed.

Senator Connolly (Ottawa West): One of the great things about Pope, of course, is the fact that you can quote him for almost anything. If you look long enough, you can get it.

Mr. Ward: Productivity trends in the United States manufacturing faltered in the latter half of the 1960s, partially due to the economic pressures of the Vietnam War and, latterly, the recession.

In Canada, productivity gains outpaced the U.S.A. in the 1960's period. In the three years from 1970 to 1973 productivity improved at about the *same* rate in both countries. Since 1973 the latest figures show that productivity in the U.S.A. declined due to the very severe recession and the adjustments made to correct inflation.

Canada remained essentially flat with a less severe recession. According to some economists, the U.S.A. is posed for a very recovery in productivity as the economy expands to narrow the gap between actual output and potential. Also the U.S.A. has achieved a greater correction in inflation at the present time.

Therefore we can expect U.S.A. productivity gains considerably in excess of ours over the next two or three years as we continue to make our own economic adjustment while the U.S. runs—at least it is moving towards—full potential more rapidly.

In summary, by comparison with the U.S.A., the latest figures on productivity would appear to indicate that Canadian manufacturing has held its own over the past several years, and when we look at the accumulative trends since the mid-1960s, it appears to have narrowed the overall gap in productivity with the United States.

However, there are two very important points: first, the gap is still significant—that is, the gap of productivity between the two countries—it is estimated by the Economic Council of Canada to have amounted in 1974 to a difference of some 21 per cent; and, second, recent history indicates that under comparable economic cycles we may in the future lose ground.

Productivity gains are only one element in cost competiveness, of course. Relative rates of increase in Wages and salaries are a second important factor, for it is a combination of the two that results in critical labour costs per unit of output.

I might divert for a moment to express a point that I feel is extremely important in regard to producitvity. I believe it is important, when we talk productivity, not to talk in terms of labour productivity alone. My own view is that the productivity needs of the country are very significant in areas besides labour—in the whole area of management, design, manufacturing processes, capital and so on this is not to downgrade the importance of labour in the area of productivity improvement. There is no question that labour is a very important factor. I have worked and lived in the United States for a number of years and in Europe for four years. I am a good Canadian. I think that we still have people who know how to work and who will work, given the right environment, the right conditions.

So I want to make sure, at the outset, Mr. Chairman, that when I talk about productivity, I am not talking about labour per se, but total productivity of the economy.

Senator Cameron: Mr. Ward, you said that the productivity gap between Canada and the United States was 21 per cent in 1974.

Mr. Ward: Yes.

Senator Grosart: I wonder if I might ask Mr. Ward to define what he means by "productivity," because there are several definitions presently in use.

Mr. Ward: I gave one in an editorial I wrote recently in which I said that higher productivity must be understood as that balance among all of the available factors of production that gives a relatively higher output for relatively small input.

Senator Grosart: I have that, but that is rather more a classification than a definition. How do you measure it? What is your yardstick?

Mr. Ward: Specifically in our business?

Senator Grosart: Yes.

Mr. Ward: In this respect, I am going to give you some information later relative to U.S. GE-CGE productivity. In doing so, I want to emphasize, again, it is a very difficult area to measure. It is a very difficult area in which to be precise, but you can get measurements that give you an order of magnitude and trends and which to provide useful information.

How the Economic Council of Canada arrived at that figure, I really do not know.

Mr. V. L. Clarke, Vice-President in Charge of Strategic Planning, Canadian General Electric: It was based on a study done in 1964 where they tried to relate labour input to physical output in various industries in Canada. I do not think a thorough study aimed at the basics has been conducted since. They have applied trend data to the original 1964 study. To arrive at current estimates

Senator Grosart: In that study, they came up with a "potential" line, which was very poorly defined. It was almost a guess. Productivity, as I understand it, is a measurement of accomplishment vis-à-vis potential productivity.

Mr. Ward: Perhaps I can go on to deal with some of the company data in this respect, which will perhaps help us in our discussion, or I can deal with that now, if that is the wish of the committee.

Senator Grosart: Just let me ask you one other thing. You are drawing a distinction between total productivity and per capita productivity, are you?

Mr. Ward: I am not sure what you mean when you use the term "total productivity."

Senator Grosart: Factor productivity. That is a term that is sometimes used.

Mr. Ward: In our case, what I am talking about today, is either the overall relationship of the output of the economy per person employed, or productivity specific to our particular company and industry.

Senator Grosart: It is on a per capita basis, then.

Mr. Ward: You are on a very important point, and I do not want to talk loosely about it. I will come back to it after I have given you some more information.

Dealing with average hourly earnings, in the period from 1969 to 1974, average hourly earnings in Canadian manufacturing rose an average of 9.4 per cent a year, compared with 6.6 per cent a year in U.S. manufacturing. In 1975, the increases were 16 per cent and 9.1 per cent respectively.

The higher average increases in Canada are attributed by some to the standard setting effect of higher average increases in the highly visible public and quasi-public service industries in Canada, which are not as vulnerable to international competition. In any event, according to the annual Economic Review of the Department of Finance, in the last quarter of 1975 average hourly earnings in Canadian manufacturing stood at $5.21 U.S., while average hourly earnings in the United States stood at $4.93 U.S.

The important fact is that Canada had, in effect, reached and passed the parity point in manufacturing wages while it still was as much as 20 per cent away from reaching parity in productivity. In essence, the real problem that faces Canadian manufacturing today lies in this combination of factors.

Again, I emphasize that the specifics may be off, depending on how one defines them, although we have done a great deal of work in attempting to get at the real facts. In any event, the difference is certainly on the negative side as far as Canada is concerned.

To give you a more down-to-earth feel for this situation, I would like to give you some information on productivity and wage rates of some of my own company's Canadian plants relative to their counterparts in the United States. This relates to your point, Senator Grosart. I should mention, we have found it very difficult ourselves to measure actual relative productivity between plants, even when they are producing the same line of products. Product designs differ between Canada and the United States. Invariably, there are different mixes of product sizes and features that prevent an accurate and fair comparison. However, let me give you a range of figures for two types of products, one a mass-produced major appliance product and the other custom-built large power transformers.

On major appliances, our plant in Montreal produces considerably less than one-tenth the volume of the corresponding General Electric plants in the USA. As best we can measure it—and I caution you again as to the possible inaccuracies in this measurement—the Canadian plant has an output per employee about 15 per cent below the U.S. counterpart. That we have been able to approach this

closely to the performance of a much larger U.S. plant is, I believe, due in no small part to the ready access our Canadian managers have to the product and process technologies of their U.S. associates, as well as their ingenuity in the design of products to meet Canadian manufacturing scale.

It is even more difficult to measure relative productivity on custom-built equipment where sizes and designs vary considerably. Our transformer plant in Guelph, Ontario, produces approximately one-third as many units per year as its associate in Pittsfield, Massachusetts, and, as near as we can measure, the productivity at Guelph, in some years, is very close to that at Pittsfield. Again, of course, there is a free flow of design and production information between the two groups. I might mention that competition in Canada is both from domestic and overseas firms, and is very strong.

I have used what might be termed "dedicated plants" in these comparisons—that is, plants that are dedicated to single product lines—which perhaps shows our Canadian performance to be better than what we would find if we averaged the productivity relationship across all our plants, because many of them are, of necessity, multi-product plants in Canada, while most of the U.S.A. plants are large enough to be specialized.

The economic Council's figure of about 20 per cent, therefore, would appear to be reasonably representative of our own industry, our own company, and our U.S.A. counterparts.

The Chairman: If I may interrupt you at this point, Mr. Ward, in arriving at that figure of 15 per cent was any factor introduced for the economies of scale?

Mr. Ward: It is automatically included, yes. To give you another example, let me cite appliance motors, which are the motors which go into washing machines, refrigerators, and appliances of that nature. We build these in Trenton, Ontario, a small town near Peterborough. General Electric builds them in two plants, one in Dekalb and one in Murfreesbro, one being in the south, and one in the midwest. The volume of the General Electric plants of Dekalb and Murfreesbro are about ten times the volume of our Trenton plant.

We have attempted to offset the difference in design. Although they are for the same purpose, although they are the same basic motor, we have some design differences due to the lower volume, so as to reach the optimum economic cost. Adjusting to that, we arrived at what we call equivalent units to try to offset some of these things. On the basis of equivalent units we calculated the physical output per hourly employee on a 40-hour week, and by comparison we arrive at a 17.7 per cent productivity difference in favour of the United States plants. That was an attempt to get at these differences that you have raised in terms of both scale, the factors of design, differences in layout and so on; it is an attempt to get right at productivity. I do not know if that fully answers your question.

Senator Grosard: What is the tariff protection rate?

Mr. Ward: The tariff protection rate generally is 15 per cent. What is it on appliance motors?

Mr. Clarke: It is 15%.

Senator Grosart: So if your protection is lower than your productivity gap —

Mr. Ward: We may be in difficulty unless we can close the gap.

Senator Grosart: — Westinghouse will be selling American-made motors in Canada.

Mr. Ward: They already are. We are one of the few who are still making these in Canada. That is an important point. This is what happens of course. As I said, I have used what might be termed dedicated plants, but it seems to support the roughly 20 per cent figure of the Economic Council.

More accute figures are available on labour rate relationships— We will hand out some information that gives specific labour rates between comparable CGE plants in Canada and the United States. This is the kind of information, of course, that we would not want to have published, and we ask for your treatment of it on a confidential basis. This table shows the current labour rates at ten of our Canadian plants and their United States counterparts for the four classifications of labour, from relatively unskilled to the highly skilled tool and die journeymen. The current unweighted average difference is over 20 per cent higher in Canada.

I might mention, because it is very important, the timing of the contracts. The General Electric labour contract will expire this month, June 27, 1976, and obviously there will be a narrowing of this gap. I cannot give any idea whatever, and would not be able to do so if I could, of what that might be, but I might say that the recent settlement of the transport Teamsters Union in the United States averaged out at around 9.5 per cent a year over a three-year contract. Our CGE contract expires December 24 of this year.

I think it is important to recognize that this is not unique to CGE. As a matter of fact, I am not breaking any confidence when I state this, because it has been published: Mr. W. Light, the president of Northern Telecom, a Canadian multinational company, has commented publicly, on the relative rates between their Canadian and United States plants. I would not like to comment on what the weighted average of their difference is in relation to our 20 per cent but, the difference is favourable to their United States plants. There are others in a similar situation. I think those numbers are probably fairly clear to you, but if there are any questions I will try to answer them.

Senator Grosart: The lowest American rates appear to be in the south.

Mr. Ward: That is correct.

Senator Grosart: Is the climate a factor all the way up to Canada?

Mr. Ward: One might assume it is one factor.

Senator Connolly (Ottawa West): Historically, how long has this differential existed?

Mr. Ward: It has been a gradual trend over a number of years but with a real sharp increase recently. As a matter of fact, I have some charts on that. The cross-over really took place about 1972 or 1973. The big shift in the relative competitive position of manufacturing in Canada, certainly as indicated by our company and substantiated by my information from others, is that we shifted over to a critical position around 1973. It really tended to parallel the latest period of high inflation. This is something which is

of great concern to us, that we may be poised for a real problem because the shift has been quite sudden, it is quite specific and quite significant.

Senator Carter: Referring to the varying rates from the southern states, increasing the farther north you get up to Canada, where they are highest of all, taking into consideration the lower cost of living in the south, would you say they represent just about an equal standard of living?

Mr. Ward: I think we have to be a little careful, if I may say so, on drawing out of this a conclusion such as has been suggested. I know in talking to Mr. W. Light, for example, he tells me that two of their plants in the northern part of the United States mid-west are significantly below their present Canadian rates, so I would caution against a general conclusion that this is simply a geographical differentiation. In our own case, Schenectady, has almost exactly the same geographical climate as Peterborough, being a heavy snowbelt area is a cold area.

Senator Carter: I was thinking about the cheaper cost of living—food costs, appliances, generally speaking cheaper cars; you live cheaper in the United States so that even if the rates are lower the standard of living would be every bit as good as in Canada with higher rates. A person earning, say, $4.19 in Pitfield would be just as well off as a man getting $5.02 in Montreal.

Mr. Ward: Generally speaking I believe that maybe correct. However, until the total economic performance of Canada can afford this, the problem the country and manufacturers face is that you are in competition with these plants and people, and we have to think of the implications of this in terms of employment and so on.

I made a presentation in Montreal a couple of years ago on the implications of inflation, with regard to industrial relations and competition. That is back in 1974. Incidentally, we will be happy to let you have whatever copies we have of this information if you wish.

The interesting thing at that time was that although there was a lot of concern that there had been a drop in the real income of people in Canada, generally, if you looked at the long range trend, there had not at that time been a real drop. There had been a slowing in the rate of real improvement but actually there had not been a real drop.

What we were dealing with at that time—and maybe still are—was that all of the expectations were not being met. However, that does not argue against the point you have made which is a broader issue of economic dimensions. However, for my purpose today we are looking at this subject primarily from the point of view of the competitiveness of our plants with those in the U.S.

Senator Connolly (Ottawa West): Mr. Ward, it would appear from a table at the end of some material we have from Mr. Dobell that the switchover began to take place in 1973. I believe you said it was perhaps at about that time.

Perhaps this information is at the forefront of your mind. Do you think that those increases were in response to higher inflation, higher living costs that were becoming very marked at that time, or do you think these increases were in anticipation of these things?

Mr. Ward: In this area, of course, you are asking for my personal opinion?

Senator Connolly (Ottawa West): Yes. I know you do not do the negotiating; you have your own people.

Mr. Ward: I was not thinking of that so much. It is a mixture of factors in the economy.

I am conscious of being your guest here today but I have to say that one factor, as I mentioned before, is the settlements in the public and quasi-public areas which were significantly higher than they had been historically and higher than increases taking place in the private sector. They obviously had an effect because one of the things that all of us—and the workman is no different—we very conscious of is being treated equitably.

I have worked in manufacturing all my life and I have always claimed that people are not out to get as much as they can. They are very conscious of their jobs. They are conscious of the competitive situation, but they do not like to feel they are being taken. They do not like to feel they are being treated inequitably. When they see and read of settlements which look at lot larger than they are getting, naturally they want more.

The second thing is inflation did start to increase at that point. It appeared evident it was going to increase. Then you get into the matter of security of what you have and you are worried about the future. Therefore, you want more for that reason.

Finally, I think expectations were raised by the attitudes taken, and the things done by the leaders of the government and business, and academics. We had the feeling, quite frankly, that it was a pretty good situation and could probably go on for a long time. I think the whole thing then started to snowball. These are just personal opinions.

The Chairman: I was going to say, Mr. Ward, that you need not apologize for criticizing government in giving evidence before the committee.

Senator Connolly (Ottawa West): Perhaps Mr. Ward would like to pinpoint some of the settlements made in the public sector which perhaps stimulated this.

Senator Rowe: How far back do you go, historically?

Mr. Ward: The general comment is that it probably started with the big settlement on the St. Lawrence Seaway.

Senator Connolly (Ottawa West): That goes way back.

Mr. Ward: Yes, it does, but that started to raise expectations. I do not think it had an immediate impact but it started a round of expectations. I believe around 1973 we started to have other factors which affected that, and that in turn added fuel to the situation and we took off.

Again, I would say that I am not one who puts a finger on labour in this regard. I mean this quite sincerely. I started working in the plant and I grew up in a labouring job and I have been all through the manufacturing area. The vast majority of these people are fine, family people. They are responsible people. However, the environment and the general things happening set the stage for a real take-off, and this is, of course, what we are all trying to deal with today.

Senator Grosart: Mr. Ward, have you attempted to relate these figures to social indicators, on a comparative basis? After all, these figures are what the employers pay the workers in either country. You have to add to that or subtract from it, whichever you wish, the universal benefits.

Mr. Ward: Yes.

Senator Grosart: How would those comparative figures stand up? Are the universal benefits in the United States greater or lower than in Canada?

Mr. Ward: Are you speaking now about the fringe benefits the employer pays or the social benefits in total?

Senator Grosart: I am speaking of the social or universal benefits.

Mr. Ward: No, I do not have that.

Senator Grosart: Would it not be a very important element?

Mr. Ward: It is generally my impression that in Canada the social benefits in total would be higher.

Senator Grosart: That is my impression.

Mr. Ward: Yes, and I believe that is probably a pretty fair conclusion in view of the relative size of our services sector and our transfer payments. I do not think we have anything in this material on that. We will make a note of that, Senator Grosart.

The Chairman: A closely related point to your question, Senator Grosart, would be the tax burden of the company in Canada which is a directly related matter, which contributes to those social benefits.

Senator Grosart: I was going to say you are paying that extra wage by your corporate taxation and other taxation.

The Chairman: Is that higher here than in the United States?

Senator Grosart: If it is higher, then the wage gap is higher in Canada than these figures would indicate.

Mr. Ward: One of the things about which I spoke at the last annual meeting . . . we can let you have this if you wish . . . is the rate of change in Canada in the relationship of the total services sector to the total goods producing sector.

By "goods producing" I am talking not only of the manufacturing sector or primary manufacturing but the natural resources, agriculture, mining, fishing and so on, the "wealth producing" part of the economy . . . the total services sector, recognizing that some of those services are wealth producing, are generally wealth distributing or consuming.

As a result of the research we did for that talk, the issue that came out was that while all industrial nations are moving towards the post-industrial society, the rate at which Canada was moving in that direction was higher than almost all other industrial countries, even though we are much smaller, in terms of our base. Also, our manufacturing base was smaller than almost every country, as a percentage of the gross product.

This is pertinent to your question because the economic base to support that service activity has to be goods producing. My own opinion is that we have a tremendously urgent need in this country to redress that balance in total. We must get over to building up again, at a higher rate, the whole wealth-producing part of the economy, just to meet the commitments that we have in the present social programs, let alone meet the expectations of further social programs.

The Chairman: Which comes close to the whole subject of capital formation.

Senator Grosart: There is a saying that you have to have money before you can redistribute it.

Mr. Ward: I am very old fashioned. I think that is right.

The Chairman: It is about time we had a little more old-fashioned thinking in Canada.

Mr. Ward: To sum up, the numbers indicate that Canadian manufacturing is, in the aggregate, possibly some 20 per cent less productive than the United States, and Canadian labour rates exceed theirs.

What are some of the implications? I would like to deal with this under four general headings: of trade balance, employment, capital formation, and inflation. I would only comment in passing on the obvious and most serious one facing those of us in charge of these industries today, which is the critical problem of continuing manufacturing, and maintaining investment in new manufacturing, in many of our plants in Canada, and offsetting these disparities. It is becoming quite an important question in the minds of many people.

On trade balance, there are many factors, of course, other than productivity and compensation costs which affect our balance of trade; but it is interesting to note that the narrowing of our wage rate differentials that started in the early 1970s is almost paralleled by our growing trade deficit in manufactured goods.

Since 1972 our trade deficit in manufactured goods has more than doubled from 4.8 billion to 10.5 billion in 1975. This was masked by the improvements in our trade performance on raw materials since the overall balance of trade was either positive or slightly negative during that period.

Even if we deduct the impact of trade in automotive products, the deficit almost doubled from 4.8 billion in 1972 to 8.6 billion in 1975.

These figures appear to indicate a structural change in our economy to where we are really depending more and more on exports of resource materials and the import of capital, to pay for manufactured imports.

The combined effect of lower tariffs, (The Kennedy Round redrafts of 1968) exchange premiums, lower productivity increases, higher wages, have undoubtedly all contributed to this trend.

There are some, of course, who suggest that we should follow the examples of Britain and Italy and allow our dollar to devaluate to compensate. While some adjustment in our exchange rate is perhaps desirable, and indeed I think it is probably inevitable, I would not regard large devaluations, or a policy depending on continued devaluations, as any substitute for what are the necessary corrective measures and disciplines needed to achieve competitiveness in our manufacturing and goods producing sectors. It would be merely postponing the real problem.

There are others who suggest we ought to move towards free trade, with eventual elimination of all tariffs, with the hope that this would force the manufacturing sector to restructure itself into world scale production units. There are undoubtedly some segements of manufacturing where this is possible and should be undertaken, but generally speaking our competitors in the U.S.A. are dealing with domestic market volumes, particularly in consumer goods,

at least 10 times our volume. To invest in a plant in Canada whose output even for part of a product line would be up to 90 per cent dependent on free access to the U.S.A. or other markets would or could possibly be providing hostages to the whole range of factors affecting our relationship with those countries.

There are serious political aspects to such considerations, including its impact on our ability to pursue independent international policies, independent economic strategies, and independent social programs. These questions have not been dealt with in the current debate.

The answers to our trade balance problem in manufactured goods are, of course, complex, but must, it seems to me, include policies and actions which result first of all in a reduction of imports—and this can be brought about most effectively by, (1) a climate of encouragement for reinvestment in capacity and manufacturing processes for productivity, (2) an internationally competitive tax structure, (3) a redressing of the balance of services versus the goods producing sectors that I referred to a moment ago; (4) a pragmatic and selective tariff policy, rather than a generalized free trade policy, that recognizes the realities of Canada's economies and Canada's desire for political autonomy; (5) competitive compensation practices, and (6) a competitive environment that encourages appropriate restructuring of the industrial sector.

I would now like to comment for a moment on employment. The deterioration of Canadian manufacturing has had a significant impact on employment in Canada. In 1960 some 24.1 per cent of our work force was in the manufacturing sector. In 1973 this had been reduced to 22.5 per cent. This is a lower percentage in manufacturing than exists in the United States, Japan, the United Kingdom, West Germany, Italy or France.

In this period, Japan, Germany and Italy actually increased the percentage in the manufacturing sector.

The percentage that manufacturing represents in the Canadian gross national product followed the same trend down from 23 per cent to 20 per cent in the same period.

The reverse, of course, is true of the services sector, which grew from 55 per cent in 1960 to approximately 65 per cent in 1973.

This is true in other industrial countries, but the rate of shift in Canada has been faster.

This switch of employment in gross national product mix has had a number of effects on our economy, including these: —

(1) Manufacturing in a real sense is the process of adding value to raw materials, and if we do less manufacturing we will have lost the opportunity to use our intellectual and technological skills to create higher value output from our resources in Canada.

(2) The manufacturing sector has historically been the area in which significant productivity gains are possible, as distinct from the services sector. A reduced manufacturing sector therefore reduces the total overall productivity gains possible in the overall economy, and the means for continued improvement in our real standard of living, since the goods producing sector, (resources and manufacturing,) provide the economic base for support for most services.

In summary, the quality of employment is reduced—that is, the range of skill and professional job opportunities in the country—Also with the reduction in domestic manufactured goods compared to our consumption of manufactured goods, we have to export more raw materials with lower added value to pay for them, since the growing services sector has limited export potential. We should also keep in mind that we have to import capital and will have to compete for more external capital with its significant debt service costs.

Third, on capital formation and investment —

Senator Rowe: Before you continue, under "services" are you including all public employees?

Mr. Ward: Yes, and all of the non-goods-producing industries, private and public.

One of the important ingredients to any broad policies to revitalize Canadian manufacturing is reinvestment—investment in capacity to provide relief to the supply side of the inflation equation as the economy picks up, and investment in productivity. By "productivity" I mean the whole range of functions needed to reduce the unit cost of output, not just labour, as I mentioned a moment ago. In these are included (1) new and more efficient production machinery, (2) better distribution systems to narrow the spread between manufacturing costs and total costs; (3) restructuring of industry into larger production units, and the necessary specialization of product lines—product and process development for more efficient use of energy and raw materials.

This latter, incidentally, is beginning to appear as one of the big areas for productivity improvement; that is, the use of design capability to reduce the use of materials and improve the efficiency of manufactury processes.

There is much that can be done to help generate the capital to do this and to encourage people to make the longer term commitment of their capital to the task in such things—as tax policies which increase cash flow. This is becoming an extremely urgent problem in all industries today. We have many cancellations and many deferments of industrial investment today due to the fact that the cash flow has been significantly reduced due to both inflation and, of course, the recent government action to reduce profits.

In the current period of inflation, tax policies in Canada actually result in the decapitalization of industry. Another would be 2 actions which increase the availability and creation of capital, including equity capital, which would include such items as inventory accounting on a last-in-first-out basis, as is used in the United States, and accounting on the basis of replacement cost of plant and equipment rather than historical cost.

There must be the ability to earn comparable returns on equity to other forms of investment. Otherwise, people will not provide funds to equity investment.

There must be incentives for individuals and institutions to direct their savings and investment resources towards venture capital needs. The interest and dividend credits are, of course, a step in this direction.

We need to shift from an economy which is consuming more than it produces. In the opinion of some economists, this would require policies that increase capital formation from the current 22 per cent of gross product to 25 per cent in the 1980s. Recent forecasts indicate, in real terms, the Canadian manufacturing sector will invest less in 1976 than it did in 1975. If this continues uncorrected, we will

shortly find ourselves in a serious unbalanced economy in which the options, both economic and political become narrowed.

Finally, the unfavourable trends of these three factors of productivity, compensation and reinvestment have, without doubt, contributed to the unacceptable rates of inflation experienced in Canada in the last five years. Speaking for my own company, we have seen increases of materials costs outpace the ability of our engineers to redesign for better utilization or for substitution; we have seen our wage and salary costs outpace our ability to implement cost improvements; we have seen our real capital, real profits, depleted by taxes on inflated inventories, and the lack of accounting procedures which would allow for the use of current values in replacement of assets.

While we have managed to find ways to offset a portion of these increases, (our wage and price index has increased 29 per cent in the 1970-75 period versus a CPI increase of 42½ per cent) we have found ourselves having to face many situations where, in order to meet import competition, we have to make the hard but necessary decision of ceasing manufacture in Canada. These range from certain consumer goods to larger types of industrial electrics. Perhaps more importantly, we have had to defer manufacture in Canada of products that, under previous conditions, we would possibly have manufactured here.

I would emphasize that we are not unique in this and that it is not unique to subsidiaries of multinational companies. This is true of Canadian multinational companies where the option exists to manufacture or source products on components from the most economic area.

As we see it, the gradual substitution of imports for products that could have been manufactured here is a very real and serious problem.

Inflation rates in Canada are having an impact on the structure of the Canadian economy, a change as real as any deliberate policy to return to a greater dependence on our agricultural and extractive industries to close the widening trade gap and to provide the tax base necessary to support the social programs. In this respect, we run counter to the aspirations of every other country, both industrialized and developing, and, I would think, the aspirations of most of us as Canadians.

Mr. Chairman, I have chosen to deal with some selected factors. I would emphasize again that these are difficult and very complex areas. I am very concerned, given these trends and their impact, about our capability as a country of maintaining a visible and growing manufacturing industry in Canada.

The Chairman: Thank you very much, Mr. Ward. I will ask Senator Carter to commence the questioning.

Senator Carter: Thank you, Mr. Chairman.

Mr. Ward, I believe you gave your volume sales for 1975 as being $822 million.

Mr. Ward: Yes.

Senator Carter: What portion of that figure would represent export sales to the United States?

Mr. Ward: $26 million in 1975 out of total exports of approximately $8 million. If I can give you a little philosophical background on this, in the area of trade, as far as Canada is concerned, I think we have to be extremely careful on this whole matter of generalizing with regard to free trade. I gather you got that out of what I said a few moments ago. I think as a country we do need the discipline of international competition to maintain a competitive industry, but I think we need to do that on the basis of a very highly selective tarif policy aimed at achieving all of the desired objectives. Also, I feel we have to think through the objectives fairly thoroughly. I ask myself, for example, why Canada exports? Why does Canada want to export? There is one school of thought on that, which is a rather interesting one, and that is that basically a country exports to pay for its imports.

Keeping that in mind . . . and I am not suggesting it is the right answer; I am simply raising these questions that are in my mind . . . you then add to that the fact that we presently have a $10 billion deficit in manufactured goods. In other words, we have at least a $10 billion market in Canada which we are not serving.

As a businessman running a company, if I had a business in which I was selling in the export market, as I am, and selling in the domestic market, and I found my domestic market slipping away from me, losing ground, and it was a larger market than I could tap overseas, I do not think I would embark on a major strategy of getting more sales in the export market and letting the domestic market deteriorate.

Because, first unless you have a sound domestic base, a real solid domestic base, it is not likely, over a period of time, you are going to be able to compete internationally, certainly not on a free trade basis. And second, as I mentioned in the background presentation, it concerns me that if you have 50, 60, 70, 80, 90 per cent of your manufacturing establishment depending on overseas markets, you are very vulnerable to political activity, political decisions in those countries, economic decisions in those countries. You are hostage, in many cases, to what they might want to do insofar as your domestic policies are concerned.

I believe we ought to be doing things in Canada which are going to make the Canadian industry the most competitive it can be, no matter which markets we go after—and I am talking of such things as good competition policy, a restructuring of industry, and so forth. Frankly, I do not know how this can be done, but we have many dichotomies at the moment—for instance, we are attempting to increase marketing in just about all of the provinces with DREE grants and provincial purchasing practices and this tends to fragment industry and to reduce our economies of scale.

We must provide tax policies that are competitive with other countries and policies which tend to encourage investment. In that way, we can achieve the maximum competitive position in Canadian industry. Having done this, having got at the problem of being really competitive, I think we can look at what balance we need or want. I suspect we could fill a lot more of our Canadian market, for one thing, in which case the need for exports would be reduced. On the other hand, we would be stronger to get into the export market and so on.

I think we also, however, have to continue a program of reducing tariffs against the kind of concept I have outlined, on a very selective basis, to be sure we do keep competitive pressure on Canadian industry. That needs very close collaboration between business and government when they come to negotiations on this matter.

If we are in that kind of position, we are competitive, we are doing a good job, the things we can export and the things we can really do a job on tend to fall into categories

where Canada has some indigenous advantage, if it is not in compensation, which it is not, and if it is not in volume, which it is not. No matter if we put up one plant to make appliances in Canada, we will still not come close to the production cost of a single plant in the United States at present. We have done that analysis.

There are products where we have indigenous advantages. I have spoken of this for about eight years now. Canada is a country of vast distances, with one of the highest uses of electricity per capita in the world, with large power blocs, such as the big provincial utilities. (Ontario and Quebec Hydro are amongst the biggest in the world.) This provides, in effect, an outdoor laboratory for the development of certain kinds of equipment such as DC transmission equipment for electrical transmission of large blocks of power. This is an area in which our company has done a great deal of work and taken a lot of leadership. We are active in the international market in this area, such as in large air blast circuit breakers for large transmission systems; and similarly with hydro power generation. About 35 per cent of our household housewares, appliances, are Canadian designed, and we sell them where we can in the United States or in other markets.

What I am getting at is that in terms of an export policy, of a strategy in our company, we have what we call five basic thrusts. We are pushing on those things which are indigenous to Canada, where we have particular advantages. One of the strengths of the multinational subsidiary is that we are able to use General Electric's worldwide system in addition to the Canadian government's trade commisioners and Canadian government's export credit financing facility to maximize business in those products in the United States and around the world. Some of you have probably read some of our releases when we have sold these very large generators for Grand Coulee project in the United States. We have recently sold power circuit breakers to TVA, a large public utility in the United States.

We sell appliances where we can. Oddly enough, although we have tried to sell them, I guess it is a business problem we have not solved, because we have not found the mechanism to get the mass coverage in the distribution market of some of these appliances. We have tried to sell electric kettles, humidifiers, things like that for years, and end up with unsold inventory.

The second thrust we have is also a strength of a multinational subsidiary. We have some areas of technolocal excellence in Canada. For example, a couple of years ago we came to an agreement with General Electric that we would take responsibility for the development and supply of large air blast circuit breakers. This is because we had developed the technology in Canada; and we have big systems in Canada, in effect, a natural laboratory in the country. General Electric is selling this product on our behalf in the United States, and we are selling it overseas where we can.

We have a joint arrangement on high voltage DC equipment, where we are doing the same thing. Likewise, we have an advantage in hydro-electric generators, where we have had a long history of very competitive technology, and where we have the water wheel turbines that go with them, we have moved into joint venture arrangements with some General Electric affiliates in other countries. For instance, in Brazil, where General Electric has manufacturing plants, we work with them to produce the sufficient local content to satisfy the requirements of the Brazilian government. We in Canada provide other components only with the necessary technology. We maintain our presence that way in markets that otherwise would be closed to us because of what are in effect nontariff barriers.

Our thrusts continue to be in the direction of maximizing the resources existing in Canada, which include technology, engineering competence, products and indigenous advantages of one kind or another to maximize our sales all over the world. But the fact is that the United States market is the toughest market by far. The fact comes out of my talk that we are not competitive in most instances in the United States market.

Senator Carter: I listened to your philosophy, and I could not help thinking that you were describing exactly what Britain did after the Second World War, which accounts largely for the mess in which she is in now. She concentrated on the domestic market. It is so much easier to depend on the domestic market instead of getting out and fighting for a share of the foreign market. They realized that too late. They have realized it now and are trying to do something about it, but it is rather late. Your philosophy, as you propounded it, seemed to be pretty much along the same lines that Britain has followed, and which has got her into this mess. We must be prepared to get out and fight for world markets; Canada, as a country that depends on export trade for 25 or 30 per cent of our GNP, must do better.

Mr. Ward: I agree with you. We do have to get out and fight for export markets. However, let me try to bring it down to something I can talk about more specifically. Take a company or business which is a microcosm of the country. Until you get your house in order, until you are able to compete domestically, I do not think you will be successful internationally. I really believe this is what happened, in part, to Britain. They were going out pretty actively in the world market after the last war, but they had not got their competitiveness really where it ought to be vis-à-vis their European competitors, particularly. We met them in the Canadian market where they became quite enamoured with the idea, in fact, quite strong in taking over this market in the electrical industry right after the war, but they came in with very low prices and with less than competitive technology and costs. Finally, it caught up with them. They were not basically competitive in this market.

All I am saying is it is a matter of degree and a matter of priorities. Certainly, Canada must export. I believe we must be sure, however, that we have our house in order domestically, which includes some of the things I mentioned in the tax area and in the area of productivity and costs.

I do not mean we should stop exporting in the meantime. I am a pragmatist. We could go on doing what we are doing now but we have a priority job, to set our house in order domestically, and then we have to really put the heat on industry and go out and go after export business.

The industry will go after that where they are competitive. They will go after that where they have advantages, just as we are doing. That is the part to go after.

The Chairman: If I understood Mr. Ward earlier, Senator Carter, he said that if we cannot sell something to a Canadian because other people are cheaper in our home market over our tariff barrier, we are not going to sell it abroad.

Senator Grosart: Could I ask a supplementary? I know it will vary from product to product, but in a ball-park figure, what percentage of the Canadian market would you say that C.G.E. occupies?

Mr. Ward: We get about 18 to 22 per cent. It tends to vary over that range of the market we serve in Canada.

Senator Grosart: There is 80 per cent of that market available to you, if you can, one way or another, get it?

Senator Carter: I am trying to relate my questioning to the problem we are investigating, namely, our relation with the United States and selling in the domestic market. You do sell some products to the United States; about 30 million.

Mr. Ward: Yes.

Senator Carter: Can you tell us what kinds of products you do sell?

Mr. Ward: We sell generators into the United States, large power generators, where we have a very definite advantage technically.

Senator Carter: You can compete with them on certain items then?

Mr. Ward: Yes. And we sell waterwheel turbines. We have been very successful in the last three or four years selling some large papermaking machinery in Texas and New Jersey, directly against some of the U.S.A. manufacturers. We have started now to sell large power circuit breakers.

The interesting thing is that these tend to be products with a high technology content. I am a firm believer in the principle that if we look around this country we can find things where we have excellence and where we can compete on the basis of that excellence technically, but there could be others.

Senator Carter: This is the very same area where our trade deficit in manufacturing is located, in the high technology products. This is the area which has been declining over the last five years.

Senator Grosart: No, I do not think so.

Mr. Ward: This is where, when you talk high technology products, you get into some of the very advanced electronic areas and we are not good in that in Canada. I do not mean to say we have not got areas where we are good but, generally speaking, in the general area of electronic technology, and particularly in consumer electronics we are not ahead.

Senator Connolly (Ottawa West): Could I add a supplementary to Senator Carter's question. It is just the opposite side of the coin, really, because, Mr. Ward, I believe you said countries like West Germany, Japan and the United States—and there may have been others—witnessed an increase in their manufacturing output while Canada witnessed a decrease in a comparable period about three or four years back. Why did these other countries see this increase? Was it new technology, new products? Can you indicate in some way why they went ahead while we fell back?

Mr. Ward: There are some recommendations which we have made in this area which I believe these people have done and which have been helpful. Again, I would make the point that these are complex areas on which I have a few opinions.

I do know, from being in Europe, that there seems to be a much closer co-operative approach in arriving at policies between government and industry, particularly when it was with regard to exports. I do not mean by that they did not have many areas where they did not agree, but on the other hand it seemed to me—when I came back here and in the same situation—that there was less of an attitude of "confrontation". I do not mean a nasty confrontation but there was more of an attitude of, "All right, if that is the case, what do we really do with this?" I am not laying this blame on either government or business. I believe we are both to blame; nevertheless, pragmatically that seems to me to have been a factor.

Senator Connolly (Ottawa West): Would it be unfair to say that some of the problems which business has had have been that government seems to be, at least in some of these countries, more intimately involved than on this side of the ocean?

Mr. Ward: Yes. Another thing though, getting down to specifics, they have a number of measures, particularly in the tax field, which give them a significant advantage. All European countries use a value-added tax (VAT). I am not enough of an expert to know how practical it is for Canada, but certainly in my last annual speech I proposed that we ought to have a real in-depth study made in Canada with regard to the international competitiveness of our tax structure, particularly as it applies to the manufacturing sector.

It appears to me that Europeans have an advantage and, particularly, in this area because by using the value-added tax they do two things: (a) they in effect subsidize their exports competitively because value-added tax does not apply on the export, and they get a better export price; and (b) a very important aspect is the imported products have to carry a load of the social costs because value-added tax applies on the value added of the imported products. So, it is a very effective tax system to help pay for the high level of social services and at the same time putting their manufacturers in a better competitive position.

There are some others. In Sweden, for example, they have gone quite a way in helping with this decapitalization problem under inflation.

The Chairman: Senator Grosart, you will now add the VAT to your list of NTBs.

Senator Grosart: Oh yes, it always has been.

Mr. Ward: Sweden allows tax-free reserves up to 40 per cent of pre-tax profits for future investment. They also allow 60 per cent of inventories to be written down immediately. That is a tremendously helpful factor in helping with the cash flow for reinvestment in industry. This is one of the thing we need.

Senator Grosart: DISC?

Mr. Ward: Yes, DISC in the United States is another one.

So, there have been specific things done by these countries who are very conscious of their total manufacturing because it is a much higher percentage of their gross national product.

The Chairman: Honourable senators, we are taking a little longer than usual in getting past the opening questions of our first questioner.

Mr. Ward: It is probably my fault.

The Chairman: No, your remarks have been very useful for the record. I just thought we should stay with Senator Carter.

Senator Carter: Can you give us the figure for capital cost per job in Canada and how would your figures compare with General Electric in the USA.

Mr. Ward: Average Capital investment per employee at CGE is approximately 20 per cent less non at GE in the USA for comparable business. Generally speaking, our investment per employee is about equal to theirs on heavy electrical apparatus but is less on mass produced products where their volumes are about ten times ours and therefore warrant a high investment or automaked and specialized protection equipment—in some cases 20 to 30 per cent higher than what we support by our lower volumes.

Senator Carter: Earlier witnesses have given us evidence that Canada is a higher capital cost country, because we use more plant and equipment.

Mr. Ward: You mean capital cost per employee in Canada?

Senator Carter: Yes.

Mr. Ward: That is probably so in the resource industry, but in manufacturing—for instance, take the appliance motor industry. There is no way we can put in the capital equipment that they can put in in the U.S. per job. And what this means of course is that one of the things we have to do in Canada is to use more labour in order to get our gross product.

Senator Carter: Is that one of the factors that lowers productivity?

Mr. Ward: Yes; I think it is a very important one. I think we have to shift to a higher protection of capital.

Senator Carter: You have concentrated a good deal in your presentation on productivity as being the main problem that the manufacturing industry, and the whole of industry, has to cope with. You mentioned that our labour input, while important, was not the most significant one—that there was management, plant, capital investment in equipment; and you went on to say that better use of energy, of materials and so forth, was important. Have you separated the three main elements of labour, management and capital costs, and have you been able to assess the significance of each one?

Mr. Ward: We are working on that right now. It occurred to us about a year ago—this is true, I might say, of some of our associates in the U.S.—that the focus on productivity generally, has been to think in terms of labour productivity, which is important, but it was tending to miss the fact that the additional important things that affect productivity were in some respects apart from labour.

We are right in the middle of some in-depth work being done to try to get at the priorities if you are going to try to improve productivity; but the initial information from that study seems to indicate that one of the most important areas is in material useage, because if you improve the efficiency of material useage you automatically improve the labour useage, the use of capital, and you improve the functional value of the product.

When I think back to my own days in manufacturing, I see clearly that some of our best improvements came when the design engineers got to work and really did an analysis of the product and redesigned it for considerably improved material useage . . . and all the rest flowed out of that. I think this is true also of the use of energy in the whole manufacturing process.

Senator Carter: I think you prescribed, as a cure to our balance-of-trade deficit, that we should import less and manufacture more at home. Were you speaking then of your own industry or of industry generally?

Mr. Ward: I was speaking generally.

Senator Carter: A witness was before us some time ago who spoke of industry generally, but also for the resource industry. We pointed out that times had changed, that while we had that concept at one time, it does not follow that it is necessarily true now, because of the capital intensive nature of the invesment, the equipment you have to put in, as compared with the few jobs that come out of it, and also the environmental problem. So it sort of put a damper on that idea.

Mr. Ward: There are two aspects to that. What I think he and you are talking about is moving down the road of added value in the process of natural resource products before they are exported. I think there is a good deal to that. I am not knowledgeable on that industry, so I cannot say; but I would think it would have to come out of a study of the economics of that industry. Certainly if the use of capital in that case is not going to produce the economic benefits that we want in Canada, then it is not the thing to do. But I do not know that.

I have been talking about is what we call secondary manufacturing, and primary manufacturing insofar as, say, steel making, and so on is concerned. It is the stage after, if you like, the petro chemical plant, or something like that. I think here it is evident that we do need to reduce the imports, we do need to serve more of the market. I am only going to repeat my philosophy about it. That is my own feeling on the subject.

Mr. Clarke: Mr. Chairman, may I add something in reply to a question from Senator Carter about "fighting for exports?" We are currently fighting for a large contract in Venezuela for hydro electric generators. We are competing with manufacturers from all over the world. In that case we appear to be very competitive. Our problem is that the Japanese have, with the support of the government, been able to provide certain guarantees on the impact of inflation on their bid, and changes in the exchange rate.

There is no such mechanism in Canada. We have been talking to the minister about this, and he is examining the possibilities. But that is the kind of thing we run into, even where you technically are competitive. It is a very sophisticated and difficult market in which to compete with other industrialized nations, where this kind of combination of government and industry is very effective.

That is a specific. You asked if we were struggling hard for exports, and I assure you we are.

Mr. Ward: I think in that area, Mr. Chairman and Senator Carter, that is probably why I am so set on the fact that

I think we should have a good strong domestic base and have our house in order very well domestically, because my experience in Europe has been that if you really start to hurt other countries, if you really start to get at their markets and you really start to make headway, steps are taken to make sure that this is not going to continue. Also, if it got to be too significant, you are then a sort of hostage to any decisions they might make through the use of all these non-tariff barriers, which are greatly used, and the use of various financing techniques, and so on, which are highly sophisticated. We should be out there fighting. However I get back to the fact that we will only win the battle if we have a really solid home base.

Senator Connolly (Ottawa West): Mr. Ward, I wonder if we could talk a little about your capital requirements, the sources of money for investment by your company, and the decision-making process as it relates to your parent. This is not a matter of prying into your corporate affairs unduly, but rather to have you give us an indication of the availability of capital, particularly from your parent or through the auspices, good will or good offices of your parent.

Senator Macnaughton: If I may interrupt, Mr. Chairman, I should like to point out that I happen to be in a competing business. If my presence is embarrassing to our guest, I would be very glad to leave.

Mr. Ward: No, I do not see any problem. As a prelude to this, I might mention that you must respect the fact that I am probably subjective about this, having been 45 years in the company. I am very proud of it. We are a subsidiary, a good Canadian subsidiary, of a U.S. parent and one which operates in a way that sets a good pattern. I am quite happy to respond to these questions and quite happy that you are here, Senator Macnaughton.

CGE, incidentally, over the years, has been Canadian-investor owned and British-investor owned—that is, majority owned by British. It is now majority owned by U.S. Over the years, however, it has been basically a Canadian company. It operates, and has done so over the years, as a Canadian enterprise. We do not depend on, nor do we get, capital from the U.S. parent, nor do we depend on its credit or on it providing funds.

The Chairman: What about decisions?

Mr. Ward: I will get to the area of decisions in a few moments. In terms of this aspect of the question, we generate our own capital and/or borrow it in Canada, and we have done so for many years.

I believe the last time we had to have an infusion of capital from General Electric was when General Electric increased its shareholding, which was back around 1924 when the company was expanding. It needed capital, and this was the route it took to get it. Generally speaking, we make our own decisions regarding investments.

In terms of the investment decision-making itself, and any other decision-making, those decisions are made by the board of Canadian General Electric, which is made up of 15 members, of which eight are Canadian citizens and seven are U.S. citizens. The seven U.S. members of the board are G.E. people who are primarily people we request to be on the board from particular product groups in which we have particular interest, or from whom we want a particular input, and they vary over the years. If we need a lot of input on lamps, for example, we will have the Vice-President of the Lamp Division on the board for that period of time. There is always one General Electric representative who is the spokesman for General Electric as a shareholder. In other words, he has the responsibility and authority to vote the General Electric shares in the decisions of the Canadian board.

We have certain decentralized authority for investment decisions. I have approval authority for investments up to $250,000.

Senator Connolly (Ottawa West): That $250,000 limit is set by CGE, not GE?

Mr. Ward: That is right. We recommended that limit. As a matter of fact, we are now in the process of reviewing it in the light of inflation.

The Canadian General Electric board approves all levels of investments. Up to $750,000; the General Electric shareholder is notified in advance of the appropriation coming to the board, and he then goes to the GE chairman for approval authority, or otherwise, to vote as far as the GE shareowners are concerned. Above $1 million, his approval comes from the GE board.

I might say, over a 10 year period we have invested $150 million in large project representing about 81 appropriations, all of which have been generated by the chief executive of the Canadian company, presented to the Canadian board, and all of which have been approved. We have never had any difficulty. The usual practive is that the GE representative brings questions to the board, which are very useful questions.

You may be interested in the following exerpt from the Company's Directors Manual which provides guidelines for all Directors as to their responsibilities on various matters including the rights of minority shareholders.

> The Board of Directors of the subsidiary must exercise their judgment in the best interest of the subsidiary as a corporate entity of the country or state in which it is incorporated. Even where the subsidiary is wholly owned, the Board must manage the company in keeping with the laws and regulations of the host country. Where there are minority shareowners, their rights and interests must be respected. While the interests of General Electric and the minority shareowners may in the long run be the same, i.e., to enhance the investment in the subsidiary and make a fair return, there may well arise decisions relating to investments, markets or products to be manufactured or sold in respect to which the interests of General Electric and the minority shareowners may conflict or be divergent. In such situations the officers and directors of the subsidiary must take a broader view than merely the interest of General Electric and base their decisions on the overall best interest of the subsidiary itself."

Senator Connolly (Ottawa West): Mr. Ward, we have talked about irritants as between Canada and the United States. These irritants have been multiplying in more recent years. I was talking to a high official of a U.S. multinational that is fairly big in Canada, and he was saying to me that one of the problems he has encountered in running the Canadian enterprise was some uneasiness on the part of his U.S. parent about some of the things that are happening in Canada, such as the emphasis on nationalism and some of the other irritants that are easily identified.

In his view, it made a vast difference lately in investment decisions where the concurrence of the parent company was required for capital expenditures in Canada.

I do not think I need say any more than that to you, particularly in view of what you have said to us already about your own investment program and its magnitude over the years. This is a matter of decision that you make, and you get concurrence readily, I think, from your major shareholder.

Mr. Ward: Yes. I agree that there is more uneasiness, but I do not think it is unique to U.S. multinationals. There is an uneasiness on the part of those of us who are running subsidiaries of multinationals.

If you do not mind a personal response, I am a dedicated Canadian. I was born and raised and made my success in this country. I think it is a great country. I came back from Europe and was tickled to death to do so.

I am uneasy. I think that the effect on our company—I can only speak for our company at the moment—is more likely to be on me than it is on the U.S. people. They will take their guidance from what we say, from what we communicate, from what we bring to the Board. Our decisions on investment today, and our decisions on products that we should be manufacturing, our decisions on what thrusts we should be taking to make this company successful, are dictated more by our feelings of what is likely to happen in Canada to a multinational subsidiary than it is on the feeling of the U.S. parent company.

One of the worrisome things today is that there is no specific out that I know which says that I and Canadian General Electric are hindered or restrained in any way from growing, developing and serving in Canada. However, in unspecified ways it is coming through, and we find ourselves in difficulties. Mr. Clarke, who is responsible for our strategic planning, recognizes this. If we in the past saw a good business opportunity, merger opportunity or an opportunity for something else, we used to go ahead and do it. Now, we do not even know whether we will be put in a position where a competitor which is a Canadian owned company gains an advantage that we do not have and makes it difficult to make that investment pay off.

These are concerns more for people like myself than for others outside Canada. However, they are aware of it and sensitive to it. We do not have any concern or indication of concern on the part of the parent as yet. We are responsible for the company, but I would say that from our own Canadian viewpoint it is a factor. You have probably gathered that I have a concept of all these things, right or wrong, but on this I believe the basic thing we ought to do in Canada in terms of foreign investment, foreign owned companies, is to look at all resources in Canada, no matter who owns them, under the same rules and on the same basis, and then we ought to be making rules so that what happens in those companies is for the benefit of Canada; not separate, not discriminatory.

Foreign owned companies represent reponses from 50 to 60 per pent of our manufacturing resources in Canada; Those resources include people living in towns like Peterborough, Quebec, Montreal or Sherbrooke. If we start in any way, even subtly, discriminating against maximizing the use of those resources for the interests of Canada, then we are discriminating against Canadian citizens and Canadian taxpayers. We are discriminating against resources we badly need to grow this country. That is really my major concern.

The Chairman: When you say "we subtly discriminate," you mean "we as government"?

Mr. Ward: Yes.

The Chairman: Not "we as a company"?

Mr. Ward: That is right.

Senator Connolly (Ottawa West): I think "we as government", yes. I also think "we as people." My own impression is that governments respond to a feeling that is generated among the people. The government are perhaps out front more to the media, and if there is criticism they get it rather than the people. However, it is the attitude of people in the country that we have to think about. This is why I believe the education process that is generated by reports from committees such as this is very important to the issue you have just discussed.

Mr. Ward: I could not agree more. We must get back to actions needed in the productivity area, the competitive area and so on, as well as this one. I meant to make this point and I am glad you reminded me of it. The most important priority thing we need today is to see if we can get agreement among the leaders in government, business, education and labour that this matter of competitiveness of production of goods for wealth purposes, to underpin the social programs, and the whole the issues we have been talking about today are important enough that we get out and talk about them and communicate about them as important things. I agree with you that the attitude of the people determines the politics, but very many times the attitude of the people is generated by what we say and what we communicate, and if we do not come to the point where these issues are considered to be sufficiently important, frankly I do not think we will get the answer, because politically we will not be able to do what is necessary.

Senator Connolly (Ottawa West): I have one comment to add on what you have just said. My own feeling is that in an area like this, where there is great complication, the tendency on the part of people, and perhaps on the part of the media reporting on situations, is to be over-simplistic. It is easy to say, "We as Canadians should do this. We as Canadians should control this. We as Canadians should own this." We must go very much deeper when dealing with a specific problem like that of the manufacturing business in Canada.

The Chairman: There is a corollary to that. If you completely divorced from your parent tomorrow, which could be done by putting your 92 per cent of the stock on the market and having it bought at large, it might well seriously hinder you in research, development and world sales and sales in the United States of certain specialized equipment.

Mr. Ward: There is no question about that. What we have tried to do over the years, and have done, is to take that technological and managerial base and use it as what amounts to a very inexpensive base to get leverage on. As I said, we have between 800 and 900 scientists and engineers in the Canadian company; we are in development, research and design in a heavy way. It has increased in all the years I have been with the company. We are now at the point where we have some basic technologies that are quite unique; we have others where we have excellence, and we are getting more of these. I think this is the way to go. As I said before, it does not matter whether the company is Canadian owned or owned by investors outside the coun-

try. If the government wants to achieve certain objectives it can lay down the legislation or the incentives to achieve those objectives, and as long as they are non-discriminatory, that is the way, I believe, to get what we are after in Canada.

The Chairman: Could you give us, even roughly, the percentage of your gross spent on research and development in Canada as opposed to the percentage of the parent company's gross spent on research and development in the United States?

Mr. Ward: I do not have it compared with the parent company. I have some information on our own company. Over a ten-year period, on R&D we spent $101 million, and it has been escalating. When I gave this paper on foreign ownership in 1974, it was running at something like $1 million a month.

The Chairman: I just wondered if on balance you import more technology from the parent than you export to the parent.

Mr. Ward: I would think we import much more, but the export part is growing. It is a two-way street. Incidentally, however, I might say that in the past year the parent has been pushing us to get a greater resource established in Canada in terms of research and development. And we have had one our senior vice-presidents working on this to develop an integrated plan to accomplish this.

It is something which is being impressed on us because the vice-president of G.E. research has this interesting concept. He says that one thing which is not dependent upon size of the country is the brains. As far as he is concerned, looking at it selfishly, from the total General Electric system, he wants to see all of the affiliates maximizing the creative abilities in whatever countries they are in. Our interests in that point, therefore, come together and it is very healthy.

The Chairman: So, you do not detect, then, a desire on behalf of the parent company to do the research and development at home as an export product?

Senator Carter: On that point, what kind of an arrangement do you have with the parent company? If one of your engineers came up with an improved design, which would increase your productivity, say, perhaps 10 per cent on a certain article, or it may be more on another product —

Mr. Ward: Yes.

Senator Carter: —would that design be available to the parent company?

Mr. Ward: If they want it.

Senator Carter: Therefore, you can use it to close the 20 per cent gap in productivity?

Mr. Ward: In practice, generally what happens is these are not interchangeable directly because the whole manufacturing size and capacity is so different. As I said before, on highly similar products, like an appliance motor, our design differs from General Electric. It has to, to get the optimum economics. It is the same the other way around. For instance, we have any number of products which we have either designed or redesigned here. They know about them but they have not picked them up. They do not exactly meet their needs. Therefore, except in the area of basic technology, basic research or basic development, the design is not that interchangeable. For instance, we have significantly improved the design technology on hydro generators for our purposes over the years. General Electric has not picked that up because we have designed primarily for very large generators. They do not have the number of domestic applications that we have had in Canada for large machines, and, therefore, we do very well relative to them, on such large units. They are not competitive with us in the rest of the world, even though they have tried, because we have got a technology they have not picked up and they do not have the domestic base to build on. So, they have not decided to do it. It could happen. Your point is a good point.

The Chairman: Would it be fair to say that there is a little bit of competition between the parent and the subsidiaries in other countries, just as there is a little bit of competition between Chevrolet and Buick, in General Motors?

Mr. Ward: I am only talking about our own company. Generally, in the GE system it is pretty highly decentralized. It runs a little bit along the line of a democracy in this sense. I do not mean it is a democratic type of operation. It is the same as any other operation, but in the sense that there is a feeling that probably the greatest good comes out of each component doing the best in its way, and then you do not get, theoretically, the most efficiency out of that probably, but we think you get the most effective overall performance.

Senator Carter: What you are saying is that your enterprise here in Canada is geared to different market requirements than the parent company?

Mr. Ward: Basically, that is right.

Senator Cameron: Mr. Ward gave some figures which I find rather intriguing. He said the hourly rates of pay in Canada were $5.21 and in the United States $4.93 which means a difference of $0.28 an hour. Then the difference in productivity between the United States and the Canadian plants is 17 per cent. I take it the 17 per cent is more productivity in the American plant; is that correct?

Mr. Ward: Yes.

Senator Cameron: Does it not look as if we are heading for trouble somewhere if we are paying $0.28 more per hour for labour and our productivity is 20 per cent less? There is something wrong there. What can be done to correct it?

Mr. Ward: As I have said, first of all I think you need to get agreement in the country as to whether the problem is serious enough that it ought to be given top priority, or be among the top priorities which, in my opinion, it is.

Secondly, if that is so we must then have the communication on the part of those informed leaders in our society that will help to get that understanding, not in the technicalities but in the nature. For instance, in the last year we have gotten understanding of certain problems that are very important. People do understand them. I think we can get the same kind of understanding that there is a competitive problem. Policies which will help us to improve our competitiveness through primarily, in my opinion, the tax route, the investment route and the management route are needed. There is a great deal to be done in Canada to improve our management, really. Management is generally focused on the whole matter of total productivity.

I do not know whether that answers your question, senator.

Senator Connolly (Ottawa West): That last point is very important, is it not?

Mr. Ward: Yes.

Senator Carter: In addition to that, you have energy costs, exchange rates on the dollar, a lower-scale output and all sorts of disadvantages.

Mr. Ward: We made a rough calculation and we figured that in our industry with wage parity we could live with a 95-cent dollar and a 15-cent tariff. I am not recommending devaluation, as I said before, but I think inevitably it must come because we are so out of whack that it will not take care of itself.

Senator Cameron: I wonder where we go from here. If we take these figures, what can we do about it? Is it an educational job? Does it mean that we must say to management on the one hand and to labour on the other: "Here is the picture; we cannot continue with that disparity"? What can be done about it?

Mr. Ward: Of course, the present anti-inflation program is an attempt to get at part of the problem and I realize the political problems. However, I think it is very unfortunate that most parts of that program are actually counterproductive, in terms of the capital investment side of the equation and the improvement in productivity. At the moment we are literally discouraged from doing anything to improve productivity. We do not know the definition of what they say is "unusual" in productivity improvements, so it is hard to make major investments in that area.

My view is that I do not really understand why, if we control prices, wages and salaries, we should bother with profits other than for political reasons, of course, which are very important reasons. However, it seems to me that we should try to get understanding of that, because the moment we start controlling the profit side we are discouraging the very thing that will start to get at the fundamental causes of inflation. We are only getting at the symptoms at the moment. If we are to get at the fundamental causes, we must improve the cash flow and get more investment and productivity. We must also realize that these profits are not real. For instance, I do not know how many of you have seen the recent study by Touche Ross, accountants, with respect to this subject. They show that although total industry profits are reported as $17.6 billion, the real profits, taking into account that the inflationary effect is something in the order of $5.6 billion.

The Chairman: Less than the dividends paid, and we have had no capital formation in Canada as a result.

Senator Connolly (Ottawa West): That is right.

Mr. Ward: I might say, in regard to dividends, on this foreign ownership question that for 10 years we did not raise our dividends to the parent company even though earnings continued to go up.

Senator Connolly (Ottawa West): Mr. Ward criticized, and I think properly, the concept of excess profit tax. There was another option when the program was announced in October. That was the cost-passed-through concept, which apparently has now gone by the board in favour of the other. Was the concept of the cost-pass-through one that was more viable for your industry than the concept of assessing an excess profit and taxing it?

Mr. Ward: As I said before, I think the thing that is unfortunate —

Senator Connolly (Ottawa West): May I say this, because I want to be on the ball: Does that affect our position with respect to the American market? Those are two broad questions.

Mr. Ward: First, the idea of controlling profits, in my opinion—is not a good economic approach. It is completely self-defeating in terms of improving our competitiveness, vis-à-vis any country.

Senator Connolly (Ottawa West): For the reasons you have given?

Mr. Ward: Yes. Secondly, if you are going to control prices, then I guess there has to be some mechanism in which you have to audit costs. You have to deal with the cost aspect of it. So to that extent we have to be very careful on the overall cost-pass-through basis, or we simply destroy the incentive for efficiency. It is a delicate area, but it is one which has to be covered. I would say again that I think that using the price control and the wage control that we need for this program is the route, and not the profit control, and we have to be very careful in making sure that the costs are very carefully scrutinized and monitored.

Senator Cameron: If you are going to control wages, we can see the howl that will go up from the labour unions if you do not control profits.

Mr. Ward: That is true; but we get back to your point of a while ago that we cannot give up on this, because this is going to hurt the people themselves. I go back to the people I know in communities like Peterborough, and so on. Their future is at stake here. Their future is at stake if we do not find a way they can understand that the villain is the price and not the profit. The profit will help them if the profits are appropriately used, but the price thing will not help. It is a bad thing if it gets rising too rapidly. I do not know any simple answer. It is a process of deciding whether we are going to —

Senator Connolly (Ottawa West): Thank heavens there is no simple answer. It is because it is thought in some uninformed quarters that there is a simple answer that most of our trouble arises about profits. It is easy to say, "Look at what Bell does, look at what CGE does, look at what the banks do, look at the big profits they are making." The important thing is how those profits are used.

The Chairman: Relative to the same point, before the price and wage program was brought in I remember discussing it with one minister and taking the opportunity to advocate strenuously that they should put regulations on dividends and not on profits so that the money would have to be ploughed back in. But that did not get anywhere.

Senator Connolly (Ottawa West): Our problem in this country is investment. That is what we need for growth. It may be people too, but it is certainly investment.

Mr. Ward: Yes, and the attitude to wanting to grow in this country. Up through to the mid-sixties I can recall that there was a great feeling of getting out and developing things, of developing the country, of investing in the coun-

try and making things grow and go. We achieved a tremendous amount. It was a whole era of productivity in which we outpaced the U.S. considerably. But then the focus moved sharply away from that. There is nothing, in my opinion, wrong with good civilized social programs. We have to have them and we have some good ones. But I think we need to redress that balance a bit and get some new focus, some new enthusiasm, some new attention on the whole development of the country. It is still a young country with a lot in front of it and a lot of opportunities which should appeal to the young people. More and more they are becoming interested in their individual ability to make their decisions and to see opportunities for growth. They are not interested in just being taken care of. I am sorry, I cannot help making these speeches, Mr. Chairman.

The Chairman: This is helpful.

Senator Rowe: Mr. Chairman, in his opening remarks Mr. Ward mentioned that out of a total number of employees of just over 18,000, I think it was, there were between 800 and 900 engineers and scientists. Is that ratio of about one to 20 pretty standard? Would it apply to your competition and would it apply to the United States or Italy or France?

Mr. Ward: I don't have the comparable numbers, for Italy or France. There are approximately 29,000 engineers and scientists of General Electric. A good many of them are engaged in work under contract from the United States government. In my opinion, which I think is objective, in Canada C.G.E. is probably higher than the average insofar as engineering employment is concerned because we are primarily an engineering company. We are primarily a technical company and we have over many years followed a thrust towards engineering and development.

Senator Rowe: I was rather surprised at the relatively large number at Canadian General Electric. I wanted to ask a question about the whole matter of productivity.

The Chairman: That whole question was dealt with at some length while you were out of the room, senator. You might find the answers you are looking for in the transcript. It is quite a broad subject and the witness has dealt with it at some length.

Senator Rowe: I suspected that might be the case. Thank you.

We have been having these hearings for quite a number of months, Mr. Chairman, and we have heard a large number of representatives of industry in Canada. All of these representatives have the same story about productivity, investment capital, and so forth. If there is no element of "crying wolf" in this, then it seems to me, as an average Canadian looking at it, that we are in a state of crisis. Is that so?

Mr. Ward: I would not want to describe it as a state of crisis. As I said earlier, my sense of it—and I have asked myself this question, incidentally, and I am still asking it—is that I think we are at the point where there has been a switch in trends, a switch in all of these factors pertaining to our competitiveness, since about 1973, which is setting the stage, I think, for what could be a crisis. That is my best assessment of a judgment basis. Too many things have changed vis-à-vis previous trends and previous emphasis.

I was at a luncheon the other day with two other chief executive officers of manufacturing industries in Canada. We were not talking specifically about this, but more about investments, and both of them said they were presently considering major investments in Canada and the U.S. One of these companies was a subsidiary of an American parent while the other was a Canadian multinational with plants in both countries. Both of them felt that on the basis of present economic assessment, they could not justify making those investments in Canada.

That does not mean that the investments will not be made. There are many factors that go into the decision. However, if the present economic climate continues over a period of time, it will have an effect on investment decisions. A business can only defy basic economics for a period of time. It may do so for a while if it thinks things are going to change or if it feels that the factors are non-recurring or may themselves renew a different trend, and so forth. You do not make decisions, as honourable senators are aware, only on the basis of the short term. The investment outlook will depend on whether the present investment climate continues. If so, I think we will then be faced with a very serious situation.

Senator Barrow: In connection with this schedule of wage rates which you provided, it is indicated at the bottom that the CGE rates are those which became effective December 24, 1975, while the GE rates are those in effect prior to expiry, June 27, 1976. Do you feel that after June 27 there will be such a wide gap between the two groups, bearing in mind that there have been strikes by the Teamsters, tire manufacturers, and so forth?

Mr. Ward: We put that in because we did not want to mislead the committee. Obviously, there will be a closing of the gap. Our contract, however, ends at the end of this year, December 24 this year, so we will be into another one. In the interim, however, there will be a closing of the gap. I obviously do not know what that will be. The Teamsters settled recently on a three year contract giving them 9½ per cent annually, so perhaps that will give you a feel for it.

Senator Barrow: But your contracts are on a year-to-year basis, are they?

Mr. Ward: That has not been the case in the past. This has become the trend in Canada since the anti-inflation program went into effect, because the unions do not want to settle for a long period, and quite understandably. No one knows what is likely to happen.

Senator Carter: Mr. Chairman, I should like to come back to the line of questioning explored by Senator Cameron and Senator Connolly earlier, and Mr. Ward's remarks about profits.

If there were no restraints on profits, your argument is that you would then have money to plough back into better equipment, capital plant expenditures, and so forth, which would, in turn, increase productivity.

Mr. Ward: Yes.

Senator Carter: As Senator Connolly pointed out, there would be a great howl if profits were to go sky high. Do you see any limit at all? Is there any line that should be drawn beyond which profits should not go? Is there an area where you could say, "This is a legitimate profit, and beyond that it is not legitimate, but unconscionable"?

Mr. Ward: There are a number of approaches to that question. For example, The ratio of profits to sales, in our own company, has averaged less than 4 per cent over the past few years. The return on investment has been running about 10 per cent. When you consider that these profits are not real, because of inflation and that they have to be used to invest in plant at current values, and to replace inventories bought at lower values that are going to have to be replaced at higher values, then you can see that they are just simply inadequate. Also, if you look at the return on the investment, or equity, for the manufacturing sector of the economy, as compared with the return on fixed investments, and so on—and you gentlemen are familiar with the return on shares today, and the yield on stock equity, as compared to fixed investments—obviously the equity investment is not keeping pace, and that is one of the reasons why debt to equity has increased very rapidly in the last 10 years in Canada. As a matter of fact, in 1974 Canadian non-financial corporations raised 51% of their capital as debt as against 28% in 1964 and the reason for that is that people are not attracted to equity.

The appropriate level of profits, therefore, is that level which will attract investment from those people who have the freedom to make decisions, and control on profits will come from competition. I am all for a very competitive society, and policies which provide for the incentive and the opportunity to improve the equity investment.

Senator Carter: Yes. So you would draw the line at the level of what would be sufficient to attract capital investment?

Mr. Ward: I would hate to be quoted as saying that I would draw the line anywhere, but I am saying that that is what would be likely to happen.

Senator Carter: An essential profit.

Mr. Ward: Exactly.

Senator Carter: Then you would say that that is an essential profit. You have to have that margin.

Mr. Ward: That is correct.

Senator Carter: But, you see, you get a howl from the public as a result of two main ideas: one of these ideas is that beyond a certain limit there is a rip-off practised on the public; and the second howl comes from the fact that young people today are knowledgeable and see what is happening to the wealth that we create. They see that the lower 25 per cent of our people are only sharing 4 per cent of the wealth produced, whereas the top 25 per cent are sharing 40 or 45 per cent of the wealth produced. They attribute that situation to what they call unconscionable profits. Perhaps we need a new word for the extra price that you have to pay, but I think that in the minds of most people there is an area where they consider that a rip-off is being perpetrated; but, on the other hand, you cannot exist without profits. Somewhere in between these two there is a legitimate area of profits that has not really been explored.

Mr. Ward: I could not agree with you more about the need for education and the dissemination of better information in this connection. You may have seen reports of a recent survey done by one of the universities—perhaps more than one—as a result of which the students indicated—and they are not alone; it has been done among the general public—that business, in their view, was making 20 or 30 per cent, or something of the kind.

The Chairman: Thirty-six per cent.

Mr. Ward: Yes, 36 per cent. The reality of the situation, of course, is that it is about 4 or 5 per cent. There is, therefore, a tremendous gap in understanding in that area. Until, as I said before, we can get agreement in all the major sectors of society that this should be tackled as a priority, I do not know how we are going to get anywhere, because everybody has to talk with the same voice, if this is serious enough. If business, however, speaks in one direction, and labour in another, and government in another, and the intellectuals in yet another, the public only gets confused, and does not see the importance of the situation. People generally, I find, from living and working with the members of our plant communities, are not cynical about business, nor about profits, *per se*; but they are confused, and therefore they are concerned, because they really do not know what is going on. I think that all of us in this country bear a tremendous responsibility to try and get at this problem. I do not have any simple answer.

Senator Carter: There is a credibility gap there.

On another point, may I ask you if you import very much material?

Mr. Ward: Yes; we have to import a fair quantity of material components either because they are not available in Canada or it is too costly to make them here. We do however endeavor to purchase from Canadian suppliers whenever possible and generally speaking we do obtain over 70 per cent of our requirements from within Canada. We have basically what we call a make-buy practice. Each manufacturing manager and purchasing agent in a plant—is continuously assessing this; they buy as economically as they can on the basis of the total picture, whether it is GE or another United States or other foreign supplier or a Canadian supplier. As I noted earlier, we do endeavor whenever possible to keep the business in Canada.

Senator Carter: Do you purchase much from your parent company?

Mr. Ward: Yes.

Senator Carter: When you purchase from your parent company instead of purchasing in the market, how do the tariffs operate?

Mr. Ward: We buy from the parent company on the basis of their best competitive price in the United States; the National Revenue people police this very carefully of course. They have to declare the fair market value and the tariffs have to apply accordingly. It is an arm's-length deal.

Senator Carter: Do you encounter difficulties there?

Mr. Ward: I do not know of any, no.

Senator Carter: I have more questions, Mr. Chairman, but I think you also have some questions and I think you should have an opportunity to ask them.

The Chairman: Thank you very much, Senator Carter. I do have four or five questions. Some of them have been dealt with in part or in whole.

I would like to try to bring together some of your earlier testimony. You talked about tariffs, free trade and the types of things you export, as opposed to the components

you would hope to sell more of in Canada if our market were larger. Could you relate this a bit to our resource industry?

As a committee, at some point further down the line we must try to get these different industries with different objectives in Canada into one frame. We have had evidence from resource industries, whose percentage of exports as a percentage of their gross product is very high, whereas yours is comparatively low, about 10 per cent. I gather that a rather high percentage of your exports is in products that are again closely related to our basic resource industries, such as large generators, if you want to talk about hydro power as a sort of resource industry. You mentioned paper-making machines and something in that area, I believe.

Mr. Ward: Yes.

The Chairman: You mentioned generating equipment of various sorts as well. Would I be correct in taking from that that you do not really have any export market, to speak of, for what I would describe as your consumer goods?

Mr. Ward: Yes, we have some. On exports, we export lamps, we sell lamps in Europe and Germany; hydro turbines and generators, high voltage DC equipment, paper machines, mine hoists, ore grinding mills, railroad electric and range timers. We are a big supplier of electric range timers in the United Kingdom from our Quebec plant.

You are correct, the bulk of this is in resource related industries, partly because of the fact that this provides a base on which we build our technology.

The Chairman: That is my point. We have had in previous testimony from the departmental officials, not from industry, that of our manufactured exports in Canada—this again is largely to the United States because they take more of our manufactured exports than do the people of Europe and Japan—a surprinsingly high percentage, and I believe I am correct in my recollection of this, was in things such as heavy logging equipment, mining machinery, these things which are closely related to the technology in our resource industries.

A picture is starting to form in my mind of a further encouragement of technology in the resource industry of this country. Rather close to that is the manufacturing that flows therefrom—a heavy resource manufacturing sector being the greater potential for our immediate steps forward in the export of manufactured goods. Then to sop up some of that $10 billion embalance we have in manufactured goods trade you would support—and it seems inevitable—a protected consumer industry in Canada to fill up some of that quite legitimate domestic consumer market. Are you following me?

Mr. Ward: Yes, very definitely. I would say that over the years there has tended to be some feeling that the objectives of the national resource and the manufacturing industry are at odds. I do not believe that.

I think that the appropriate development of the resource industry and export is essential to Canada. The things that need doing in the manufacturing area can be supplementary to that or in combination with that because what is needed in the manufacturing sector are the things which I have covered here. They have to do with whether we want to provide the policies and the tax structures, both domestically and on an internationally competitive base, and whether we want to focus on encouraging, at least for a period of time, the development and restructuring of the manufacturing industry that will make us more competitive at home and, therefore, a better base from which to export. I think they both need doing.

The Chairman: The reason, Senator Carter, I am pursuing this, in spite of the fact this is a study of Canada-U.S. trade, is that from figures we have, 50 per cent of our exports to the United States are manufactured, whereas it is marginal in Europe and in Japan only 3 per cent out of a 100, the other 90% being resources.

If we are to develop along these lines, at the moment it is the United States market that is going to provide this for us. How do we get ourselves in a position of getting the maximum amount of our manufactured goods in there?. A lot of it is in what flows from resource industries, technology, heavy mining and logging equipment, and in your examples the majority of them were all that type of thing. There is a little bit of a picture developing there.

With reference to capital formation—I suppose this is an observation more than a question—has not business been very derelict in this duty—maybe not derelict but much too slow to instruct its accountants to switch the accounting system to replacement rather than cost accounting, so you will produce a clear and proper picture to the public? While, admittedly, it would not be a very attractive picture for your shareholders, at least it would be a picture which might shake government up a little bit and the public at large.

I know the Department of National Revenue would not allow you to pay tax on that basis. They force you back to your historic cost. Is not part of your problem the fact you have been disclosing all these fine dividends in recent years, when they have been totally illusory. Why do you not do something about it?

Mr. Ward: Well, there is quite a program going on, as you know. The problem at the moment is that there is quite a difference of opinion as to how best to account for inventory inflation and current replacement cost. I happen to think that we need to do this provided we do the job well. In other words you want to be sure if you do report the results on an inflation adjusted basis that it is done on a sound basis, and there are some very sound differences of opinion within the accounting profession as to how that should be done. I think that has to be resolved, and it is being worked on. I think companies have to decide whether they are going to do it or not. We would like to see the whole community do it at the same time. But it may be that that won't happen. But I agree with you. I think this is a necessary thing. I think in the beginning it would have to be on the basis of the conventional as well as inflation-adjusted method because you have the matter of continuity, but I will go further, if you will allow me, and give you another concept on this. What I think we ought to do is to view business as an enterprise in which we have five contributor claimants. In other words, rather than talk in terms of results in profits, it seems to me that we ought to be talking about the results of the enterprise to all the contributor claimants. One of course is the shareholder who puts his capital in and expects to get a return on it. Another is the employee who gets his return through compensation and benefits. Then there is the supplier who gets his through the contribution he makes and what he gets from his customer through the value of his products and then there is the government who benefits from taxes and the social benefits of the corporation. Talking about an

educational process, it seems to me that over the years I would hope that we would come to this kind of thing where we try to talk about an enterprise which is providing or which is claiming certain things from its various publics and is returning certain things. And if we change the accounting at the same time, Mr. Chairman, we might get a little better understanding.

The Chairman: I have one last question. You mentioned quite properly that devaluation of the Canadian dollar helps on a temporary basis, but it would not be a permanent solution and it is something that you would not advocate. Have you any idea, other than general belt-tightening as a nation, as to how we can overcome the problem we now have with the lack of capital formation to keep ourselves going and cover the huge imbalances of trade that we are generating partly as a result of that lack of capital formation? We import these huge amounts of capital to cover the difference, and every dollar we import keeps the value of the Canadian dollar up, so it is a self-defeating cycle, it seems to me.

Mr. Ward: How do you mean, "self-defeating"?

The Chairman: Well, we have an imbalance of trade which could be corrected if our dollar were low, but we cover the imbalance by importing capital instead of tightening our belts, and this in turn keeps the dollar up instead of allowing it to fall, which in turn would correct the imbalance.

Mr. Ward: It seems to me that if we continue what we are doing we are going to be into that crisis that the senator mentioned a while ago. I don't think there is an answer that way. I think we have started on the route of belt-tightening. However, in the final anlysis my rather old-fashioned view is that we cannot go on consuming more than we produce and we must put the emphasis on production if we are to keep up with the expectations as to consumption. We can do a certain amount by conservation, but if you take the maximum that you could expect out of conservation, we still have a tremendous growth of demands to fill. The less we underpin the productive, the goods-producing side of things in Canada, which can only be done by constraining the services side for a period of time, I think that cycle to which reference was made will continue until the foreign capital markets decide they may not lend us any more. I do not know.

Senator Carter: How many plants in Canada do you have producing consumer goods such as ranges and refrigerators?

Mr. Ward: We produce all our major appliances, that is the large household appliances, refrigerators, ranges, washers, and dishwashers, in Montreal in Notre-Dame East. All the smaller appliances are produced in Barrie, Ontario. All the lamps are produced in four plants: two in Oakville; one in Toronto; and one in Montreal. In addition to that, of course, we have a large number of component plants which supply these plants. These are the assembly plants, but the components are made in Trenton, Cobourg, Toronto, Quebec City and Peterborough. So there is a wide range of component plants.

Senator Carter: I think the Economic Council pointed out in one of its reports that the Canadian market is not sufficient to employ even one electric range plant or one refrigerator plant, yet there were 10 making refrigerators and 23 making electric ranges. What effect does that have on Canada's productivity?

Mr. Ward: As I mentioned earlier in connection with major plants, we are 15 per cent lower in productivity than the G.E. plants in the United States making major appliances and the tariffs are just about in that order. We must be competitive with the laid-down cost of these products from across the border primarily or, if they are small and in large volumes for transportation purposes, they can come from other countries. However, at the moment the pressure on productivity as far as we are concerned in Canada is competition. If we have 10 plants fighting for that Canadian market, you can be sure no price controls will be needed. I am not a proponent of forced government restructuring. In my opinion the government should set the climate and be sure that the tariffs keep the pressure on without being disruptive. Then you will find the marketplace will do its rationalization. For instance, in heavy equipments during the last 15 to 20 years in the electrical industry there has been a continuous process of rationalization. There are only one or two plants in certain areas today making certain products in Canada, whereas there were half a dozen 15 years ago.

Senator Carter: Yes, but the Canadian consumer is paying approximately 15 per cent more for his goods than his counterpart pays in the United States.

Mr. Ward: Yes, but I suppose this is the price of being Canadian.

Senator Carter: Yes, but —

Mr. Ward: I meant that quite seriously. Until we can redress the balance in our economy—I think we are supporting too high a level of services at the moment, along with the fact that we are not restructured properly in the industry.

Senator Carter: Do you think this rationalization of the industry will come off by itself?

Mr. Ward: I think it will. It will need these other things I have talked about. It will need an environment where it is worth the cost and investment to do it. Today, if you are going to decide to pay the cost of significant rationalization, it is a tough decision—not that all decisions are not tough. It is a tough decision because the returns do not look that good right now, and the returns on a rationalized basis are a risk. I think we are ready to take that risk if there is some reasonable likelihood that our general policies will redress the balance as between consumption and production. I think that is the basic thing.

Senator Carter: We are going to have negotiations on GATT again in Geneva. I think it is pretty well understood that there will be a reduction in the tariffs. How will that affect Canadian manufacturing?

Mr. Ward: Our posture on that with the department has been that we think there opportunities for reduction and opportunities for not reducing. Our approach is that it ought to be highly selective, with a maximum degree of involvement of business in the process. Basically I am one who believes in competition internationally and domestically; but the realities are that we have to be selective about it and we have to move at an appropriate pace.

Senator Carter: What is your reaction to the Economic Council's suggestion of freer trade with the United States?

Mr. Ward: I am afraid it is apt to gain popular support without understanding, in which case it is an oversimplistic answer, in my opinion. So we would go down the road

in making decisions and policies as though this is suddenly the answer, but, as I said before, there are a lot of questions which have to be answered before we can embark on such a policy. Those questions have not been debated or answered, and I think they have to be.

The Chairman: Thank you. May I, on behalf of honourable senators, thank both Mr. Ward and Mr. Clarke for not only taking the time to come before us this morning, but also for their most informative opening remarks and their frankness in dealing with all of our questions, including the confidential matters relative to their company's operations.

I might mention that the next meeting of the committee on this study—although I may call the committee on Bill C-20 after meeting with the ministers—is on Tuesday, June 22, when the Canadian Manufacturers Association will be before U.S.

June 24 is another day available to this committee under the block system. However, it is Saint-Jean-Baptiste Day and Parliament will not be sitting. We have made some tentative arrangements for July 6, in case we are still sitting, to bring back the Importers Association which we had to postpone because of Bill C-20. That is a very tentative arrangement.

The committee adjourned.

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